

# IN THE HIGH COURT OF SIKKIM

## ORDER SHEET

Criminal Revision.....No. 2 of 200 7  
 Dil Hasan Ansari & Others..... Petitioners/ ~~Appellants~~ <sup>Accused</sup>

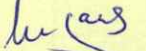
Versus

State of Sikkim..... Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
01.	26.04.2007	<p>Heard Mr. Amit Bose, learned Counsel assisted by Ms. Manita Pradhan, learned Counsel and Ms. Bhawna Darnal, learned Counsel appearing on behalf of the Accused/Petitioners. Also heard Mr. J. B. Pradhan, learned Public Prosecutor assisted by Mr. Karma Thinlay, learned Additional Public Prosecutor for the State – Respondent.</p> <p>The order dated 26.02.2007 passed by the learned <del>Chief</del> <sup>Justice</sup> Judicial Magistrate (South &amp; West) at Namchi in G.R.No.29 of 2006, is the subject matter under challenge in this Revision Petition.</p> <p>The facts of the case in a short compass are that, the learned Magistrate framed the charges u/S.120-B/420/477-A/406/34, IPC read with Sec/4/5/6, Prize Chits and Money Circulation Schemes (Banning) Act against the accused Dil Hasan Ansari and Irfan Ansari and in case of accused Benazir Ansari and Shamina Gurung, the charges under Sec. 420,/34 IPC</p>	

*N. J. Bose*



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		<p>was framed against them and under Sec. 5(e) of Prize Chit and Money Circulation Scheme (Banning) Act against accused Shahjana Ansari. Being aggrieved by the impugned order, the Accused/Petitioners filed this Revision Petition by contending inter alia, that their written argument was not considered by the learned Magistrate at the time of framing of charges, and, as such, their legal rights as guaranteed under the Constitution of India have been deprived of. On perusal of the available materials on record, it is seen that the learned Counsel Shri Amit Bose was present. He was heard at a length at the time of framing of charges.</p> <p>According to me, the findings of the learned Court below is a reasoned finding, inasmuch as, it is well settled law of the land that at the time of framing of charges Court is to see the prima facie case and the court is not required to screen evidence and to apply the standard of it where the prosecution would be able to prove the case against the accused in the course of the trial. For better appreciation in the matter, the relevant findings of the Court below made in the impugned order is quoted below :-</p>	<p>A copy of order forwarded to J.M (Soulh) on 27-4-07.    27/4/07</p>

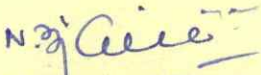

*27/4/07*



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		<p>“For the sake of brevity, the entire contention of the defence is not discussed herein. The detailed written contention of the defence is placed on record.</p> <p>I have perused the case records. Prima facie, I find sufficient materials on record to proceed against the accused persons as per charges alleged by the prosecution.</p> <p>The prosecution case cannot be rejected at this stage, before giving them an opportunity to lead evidence, merely upon an interference that the charge cannot sustain.</p> <p>It is pertinent to refer to a decision rendered in C. P. Malik v. State, 1999 Cr.L.J. 4525 (Del.) where it was held that at the time of framing charge, the Court is not required to screen evidence or to apply the standard whether the prosecution will be able to prove the case against the accused at the trial.</p> <p>Charge under Sec. 120-B/420/477-A/406/34, IPC read with Sec. 4/5/6, Prize Chits and Money Circulation Schemes (Banning) Act was framed against accused Dil Hasan Ansari and Irfan Ansari.</p> <p>Charges : under Sec. 420/34, IPC was framed against accused Benazir Ansari and Shamina Gurung and under Sec. 5(e) of the Prize Chit and Money Circulation Scheme (Banning) Act against accused Shahjana Ansari.”</p> <p>For the reasons stated above, the Revision Petition is devoid of merit and accordingly, it is dismissed <sup>and</sup> thus affirming the impugned order of the Court below with a cost of Rs.20,000/- (Rupees twenty thousand) only, which shall be paid by the Accused/Petitioners herein within three weeks from today. It is made clear by this Court that half of the costs will go to the fund of the Bar Association of</p>	

N. S. Qureshi



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		<p>Sikkim and half of it will go to Sikkim Spastics Society. It is further made clear that the Accused/Petitioners shall deposit the said cost in the Registry of this High Court, and thereafter, the same will be disbursed to the Bar Association of Sikkim as well as to the Sikkim Spastics Society.</p> <p style="text-align: center;">             ( N. Surjamani Singh )  <u>Judge</u> </p>	<p>Recd. Rs 10,000/-            (Ten thousand) only            on behalf of Sikkim            Spastics Society &amp;            Sikkim on 26-6-07            from the Registry            (Judl Section) of the            High Court.</p> <p style="text-align: right;"> <i>thru 26/6/07</i>  <i>Ananta Gurung.</i>  <i>26-6-07</i> </p> <div style="text-align: center;">  </div>

ATG/