

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, AT HYDERABAD.**

**CA No. 51 of 2010**

**In**

**CP No. 27/2009**

**(TP No.37/HDB/2016)**

**Date of Order: 17.11.2016.**

**Between:**

Mr. Arun Kumar Kedia  
Plot No.370, Road No.24,  
Jubilee Hills, Hyderabad-500034

...Applicant/Petitioner

**AND**

1. Mr. Jitender Kumar Kedia  
5-9-30/1/4/3, Road No.5,  
Basheerbagh Palace Colony,  
Hyderabad-500029

2. Mrs. Anita Kedia  
5-9-30/1/4/3, Road No.5,  
Basheerbagh Palace Colony,  
Hyderabad-500029.

...Respondents/Respondents

Authorised representative for Applicant:

Shri S. Chidambaram, PCS

Counsel for Respondent No. 1 to 3:

Shri L Ravichander, Senior Counsel

Shri. Milind Gokhale

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**CORAM:**

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

**ORDER**

**(As per Rajeswara Rao Vittanala, Member (J))**

1. This application was initially filed before the Hon'ble Company Law Board, Chennai Bench, Chennai. Since the NCLT Hyderabad Bench has been constituted for the cases pertaining to the States of Andhra Pradesh and Telangana, the case is transferred to Hyderabad Bench. Hence, we have taken the case on records of NCLT, Hyderabad Bench and deciding it.
2. Pursuant to the filing of CO No. 27 of 2009, the present CA No.51 of 2010 has been filed by the Applicant/Petitioner No.1 u/s 10(4D) of the Companies Act, 1956 read with Section 191, 193 and 209 of Indian Penal Code, 1860 and Section 195 and 340 of the Code of Criminal procedure, 1973 by seeking an order to punish the respondents in the application or alternatively direct the appropriate authority to initiate criminal proceedings against them for making false affidavit.
3. Heard Shri S. Chidambaram, Learned Practising Company Secretary for applicant/Petitioner No.1 and Shri L. Ravichander, Senior Counsel for respondents.





4. Shri S. Chidambaram has alleged that the Respondent No. 2 has made false statement of receiving a sum of Rs.2,12,00,000/- by the Company and another false statement that they received an amount of Rs. 25,00,000 on 20.03.2009, which is evident as the Company has shown an investment of Rs. 5,70,758 with Bank of India as on 31.03.2009 and also other similar allegations. And these statements amount to perjury under Section 191, 193 and 209 of IPC and the persons concerned are liable to be punished under Section 195 and 340 of Cr.P.C.
5. Shri L. Ravichander, the Learned Senior Counsel has opposed the application as not maintainable as the applicant fails to satisfy the main ingredients to invoke IPC and Cr.P.C provisions.
6. It is relevant to point out that the Company Petition was filed by Mr. Arun Kumar Kedia (Applicant herein) along with other two Petitioners u/s 397 and 398 read with 111, 237, 402 and other provisions by making several allegations amounting to oppression and mismanagement attracting action under the said provisions and sought several reliefs. The Petitioners also got some interim orders in order to protect his interests and the pleadings in the company petition are also already stated to be completed. So, the main issue required to be adjudicated, in order to render substantial justice to the parties, instead of examining the interlocutory allegations of perjury, etc. First of all, the Petitioners of the Company Petition have to make out a case in their favour and thereafter, the Tribunal has to pass appropriate orders in order to meet the ends of justice.



7. After perusing the averments made in the present application, we are of the prima facie view that the application is premature as several contentions and allegations are not examined by the Tribunal so far. Moreover, the Applicants have ample opportunity to urge all the grounds including the allegations made in the present application. So, the applicants can take all the pleadings available to him in the main CP. It is also stated that the pleadings are complete in the Company Petition. Post the CP on 30.11.2016 for final hearing.
8. In view of above circumstances, without going into the merits of the case, CA No. 51 of 2010 is disposed of by granting liberty to both the parties to file additional affidavits taking all available pleas within the scope of main Company Petition. The parties are directed to file such affidavits well in advance before the next date of hearing. No order as to costs.

Sd/-

RAVIKUMAR DURASAMY

MEMBER (TECH)

Sd/-

RAJESWARA RAO VITTANALA

MEMBER (JUDL)

V. Annapoorna  
V. ANNA POORNA  
Asst. DIRECTOR  
NCLT, HYDERABAD - 68

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