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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 3301 of 2025

1 - Ramdhirendra Sharma S/o Late R.N. Sharma Aged About 75 Years (Wrongly Mentioned As 70 Years In Impugned Order Sheet) R/o House No. 9, Adinath Vatika Opp. Hotel Kingston Amlidih P.S. New Rajendra Nagar, Raipur, District- Raipur (C.G.)

2 - Sunita Sharma W/o Ramdhirendra Sharma Aged About 65 Years (Wrongly Mentioned As 59 Years In Impugned Order Sheet) R/o House No. 9, Adinath Vatika Opp. Hotel Kingston Amlidih P.S. New Rajendra Nagar, Raipur, District- Raipur (C.G.)

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Police Station New Rajendra Nagar, Raipur, District - Raipur (C.G.)

2 - Rashi Sharma W/o Ankit Sharma Aged About 32 Years R/o Mahima Nagar Sirgitti, Bilaspur, District- Bilaspur (C.G.)

... Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner(s) : Mr. Shivendu Pandya, Advocate along with Mr. Purnendra Khichariya, Advocate.

For State : Mr. Ashish Shukla, Additional Advocate General.

For Respondent No. 2: Mr. Sourabh Sharma, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge
Order on Board

Per Ramesh Sinha, Chief Justice

12/08/2026

1. Heard Mr. Shivendu Pandya, Advocate along with Mr. Purnendra Khichariya, learned counsel for the petitioners. Also heard Mr. Ashish Shukla, learned Additional Advocate General, for the State/respondent No. 1, Mr. Sourabh Sharma, learned counsel appearing for the respondent No. 2.
2. The petitioners have filed the present petition with the following prayer:

"i. That, the Hon'ble Court may kindly be pleased to allow the instant petition under section 528 of B.N.S.S. 2023 filed by the petitioner.

ii. The Hon'ble Court may kindly be pleased to quash the F.I.R. bearing no. 92/2025 registered as police station New Rajendra Nagar District Raipur (C.G.) u/s 376, 323 of I.P.C.

iii. That, this Hon'ble Court may kindly be pleased to quash/set-aside the cognizance taken by the Learned Judicial Magistrate First Class Raipur has taken cognizance on 18.07.2025 u/s 376, 323 of I.P.C. and sent the matter for committal before Learned Upper Session Judge FTC Raipur in Session Trial Case No. 287/2025.

iv. That, the Hon'ble Court may kindly be pleased to quash entire charge sheet filed

on dated 25.08.2025 before learned Upper Session Judge (FTC), Raipur, District Raipur (C.G.), (in Session Trial case no. 287/2025)."

3. The brief facts of the case are that the prosecutrix lodged a complaint alleging that on 12.08.2023, petitioner No.1, her father-in-law, committed sexual intercourse with her against her will and that, upon narrating the incident to her mother-in-law, petitioner No.2 assaulted her with hand and fist, causing injuries; pursuant thereto, FIR bearing Crime No.92/2025 was registered on 17.05.2025 at Police Station New Rajendra Nagar, Raipur, for offences under Sections 376 and 323 of the IPC, the petitioners were granted anticipatory bail by this Court vide order dated 23.06.2025 passed in M.Cr.C.(A) No.893/2025, and after completion of investigation, the police filed the charge-sheet on 14.07.2025, whereupon the learned JMFC, Raipur, took cognizance on 18.07.2025 and committed the matter to the Court of Session, resulting in registration of Session Trial No.287/2025 before the learned Upper Sessions Judge (FTC), Raipur; the petitioners have filed the present petition under Section 528 of the BNSS, 2023, seeking quashing of the FIR, order of cognizance, charge-sheet and consequential proceedings, principally contending that there is an unexplained delay of nearly two years in lodging the FIR, the medical examination did not reveal any injury or ligature mark, and the present criminal case has been lodged due to the subsisting matrimonial disputes between the prosecutrix and the petitioners' son, coupled with various earlier criminal and matrimonial proceedings, and therefore, according to the petitioners, the

allegations are false, motivated and continuation of the proceedings would amount to abuse of the process of law.

4. Learned counsel for the petitioners would submit that the present petition has been filed seeking quashing of FIR bearing Crime No.92/2025 registered at Police Station New Rajendra Nagar, Raipur, for offences punishable under Sections 376 and 323 of the IPC, as well as the consequential proceedings arising therefrom. It is submitted that the allegations levelled by respondent No.2 are false, motivated and have been made as a counterblast to the matrimonial and criminal disputes subsisting between the parties. Learned counsel would further submit that respondent No.2 had married the son of petitioner No.1 during the subsistence of her earlier marriage with Arunesh Kumar Badgaiya and, after the said fact came to the knowledge of the petitioners' son, criminal proceedings were initiated against respondent No.2, including FIR bearing Crime No.27/2023 for offences under Sections 420 and 494 of the IPC. It is contended that respondent No.2 has thereafter initiated multiple proceedings against the petitioners and their family members, including proceedings under the Protection of Women from Domestic Violence Act, thereby demonstrating the continuing matrimonial dispute between the parties. Learned counsel would also point out that there is substantial delay in lodging the present FIR in respect of the alleged incident and that the explanation offered for such delay is wholly unsatisfactory. It is further submitted that subsequent developments, including the judgment dated 22.01.2026 passed by the learned Principal Judge, Family Court, Bilaspur, in Civil

Suit No.693-A/2025, whereby the marriage was declared null and void under Section 11 of the Hindu Marriage Act, as well as the pendency of F.A.(MAT) No.51/2026, further establish the background of matrimonial discord. Learned counsel would submit that the petitioners are elderly persons and have been unnecessarily roped into the criminal proceedings arising out of the matrimonial dispute, and that continuation of the proceedings against them, in the facts and circumstances of the case, would amount to abuse of the process of law. It is, therefore, prayed that this Court may exercise its inherent jurisdiction under Section 528 of the BNSS, 2023, and quash the FIR, charge-sheet, order taking cognizance and all consequential proceedings in Session Trial No.287/2025.

5. Learned counsel for respondent No.1/State would oppose the petition and submit that the FIR bearing Crime No.92/2025 registered at Police Station New Rajendra Nagar, Raipur, for offences punishable under Sections 376 and 323 of the IPC, was registered on the basis of a cognizable complaint made by respondent No.2 and, after due investigation, statements of the complainant and other witnesses were recorded and the charge-sheet was filed before the competent Court. It is submitted that the learned Court below has thereafter taken cognizance of the offences and the matter is pending before the learned Sessions Court for trial. Learned counsel would further submit that the allegations and grounds raised by the petitioners involve disputed questions of fact, which cannot appropriately be adjudicated in proceedings under Section 528 of the BNSS, 2023, and the material

collected during investigation prima facie discloses commission of the alleged offences by the petitioners. It is contended that the inherent jurisdiction of this Court is to be exercised sparingly and only in exceptional circumstances, and where the FIR and charge-sheet disclose commission of cognizable offences, the criminal proceedings ought not to be interdicted at the threshold. Learned counsel would submit that the defence of the petitioners, including the alleged matrimonial dispute, delay in lodging the FIR and the documents relied upon by them, are matters which may be appropriately considered by the learned Trial Court on the basis of evidence and cannot be made the basis for quashing the prosecution at this stage. It is further submitted that after completion of investigation and filing of the charge-sheet, no illegality or infirmity has been demonstrated by the petitioners in the investigation or the consequential proceedings. Therefore, the petitioners have failed to make out any exceptional ground warranting exercise of inherent jurisdiction by this Court, and the petition being devoid of merit deserves to be dismissed.

6. Learned counsel for respondent No.2 would vehemently oppose the petition and submit that the present petition seeking quashing of FIR bearing Crime No.92/2025, charge-sheet and consequential criminal proceedings is devoid of merit, as the material collected during investigation prima facie discloses commission of offences punishable under Sections 376 and 323 of the IPC against the petitioners. It is submitted that the allegation regarding delay in lodging the FIR is misconceived, as respondent No.2 had initially submitted a written

complaint to the Superintendent of Police, Raipur on 21.06.2024 and, thereafter, approached the Inspector General of Police, Raipur on 10.10.2024, pursuant to which her statement was recorded by the Women Cell, Raipur on 27.11.2024. The petitioners had also participated in the said enquiry proceedings. It is contended that the FIR was ultimately registered on 17.05.2025 and, therefore, the delay cannot be treated as an afterthought. Learned counsel would further submit that the petitioners have not placed the entire charge-sheet on record and have omitted material documents forming part of the challan, including the statement of the victim, medical treatment documents and WhatsApp photographs/chats, which prima facie support the prosecution case.

7. He would further submit that the matrimonial disputes, earlier criminal proceedings and proceedings concerning the validity of the marriage are disputed matters and cannot be relied upon for quashing the present criminal proceedings when the charge-sheet discloses prima facie commission of the alleged offences. It is submitted that the judgment and decree dated 22.01.2026 passed by the learned Family Court has been challenged by respondent No.2 in F.A.(MAT) No.51/2026 and its effect and operation have been stayed by this Court vide order dated 04.02.2026. Learned counsel would contend that the defence raised by the petitioners and the evidentiary value of the documents relied upon by them are matters to be tested during trial and cannot be adjudicated in exercise of inherent jurisdiction under Section 528 of the BNSS, 2023. Thus, in view of the prima facie material

available on record and the settled limitations governing exercise of inherent jurisdiction, no exceptional ground is made out for quashing the FIR, charge-sheet or consequential proceedings, and the petition deserves to be dismissed.

8. We have heard learned counsel for the parties and perused the documents appended with this petition.

9. From the written complaint, it appears that the alleged incident of sexual assault by petitioner No.1, who is the father-in-law of the prosecutrix, is stated to have occurred during the intervening night of 12/13.08.2023. The prosecutrix has further alleged that on 14.08.2023 she was sent to her parental home and was allegedly assaulted and that, on 21.08.2023, when she returned to her matrimonial home, she was again allegedly assaulted and driven out. Thus, according to the prosecution itself, several events allegedly occurred immediately after the alleged incident. However, the FIR alleging commission of the offence under Section 376 of the IPC was registered only on 17.05.2025, after a lapse of about one year and nine months. Though respondent No.2 has relied upon complaints allegedly submitted before the police authorities on 21.06.2024 and 10.10.2024, the fact remains that no FIR was registered pursuant thereto and there is no satisfactory explanation forthcoming from the material on record as to why, despite the alleged occurrence being of such serious nature and despite the prosecutrix having approached the police authorities earlier, the allegation of rape was not incorporated in an FIR until 17.05.2025.

10. It is settled that mere delay in lodging an FIR relating to an offence of sexual assault, by itself, cannot be a ground for quashing the prosecution. Similarly, absence of injuries, by itself, cannot be treated as conclusive against the prosecution. However, the present case has to be examined on the cumulative effect of the circumstances appearing from the record. The material placed before us shows that, during the intervening period, serious matrimonial disputes had arisen between respondent No.2 and the son of petitioner No.1 and several criminal, matrimonial and proceedings under the Protection of Women from Domestic Violence Act were initiated between the parties. The present prosecution, therefore, cannot be considered in isolation from the admitted background of continuing matrimonial discord. The investigation, as reflected from the charge-sheet, consists principally of recording the statements of the prosecutrix and other witnesses, preparation of the spot map, seizure of certain articles, collection of treatment documents and electronic material and recording of the prosecutrix's statement under Section 183 of the BNSS. The FSL report in respect of the exhibits sent for examination was also awaited. The medical material available on record does not disclose any injury or ligature mark corresponding to the allegation of forcible sexual intercourse.

11. At the same time, we are conscious of the settled limitation that, while exercising inherent jurisdiction under Section 528 of the BNSS, this Court ordinarily should not embark upon appreciation of evidence or conduct a mini-trial. The jurisdiction, however, is preserved to prevent

abuse of the process of the Court and to secure the ends of justice. In ***R.P. Kapur v. State of Punjab***, AIR 1960 SC 866, the Hon'ble Supreme Court recognised the inherent power of the High Court to interfere with criminal proceedings where their continuance would amount to an abuse of the process of the Court. The principles governing exercise of such jurisdiction were authoritatively summarised in ***State of Haryana v. Bhajan Lal***, 1992 Supp (1) SCC 335, wherein the Hon'ble Supreme Court, inter alia, recognised that interference would be justified where the criminal proceeding is manifestly attended with mala fide and/or is maliciously instituted with an ulterior motive for wreaking vengeance. The Hon'ble Supreme Court has further held in ***Vineet Kumar v. State of Uttar Pradesh***, (2017) 13 SCC 369, that the inherent jurisdiction of the High Court is of wide amplitude and is intended to secure the ends of justice and prevent abuse of the process of any Court.

12. In the present case, the question is not merely whether the allegations in the FIR, if read in isolation, disclose the ingredients of Sections 376 and 323 of the IPC. The FIR undoubtedly contains allegations constituting the said offences. However, while examining whether the criminal proceedings should be permitted to continue, the Court is entitled to consider the attending circumstances emerging from the record. The alleged occurrence is of August, 2023, whereas the FIR was registered in May, 2025; the prosecutrix admittedly approached the police authorities on earlier occasions, during the intervening period, serious matrimonial disputes and multiple proceedings arose between the parties; and the present FIR came to be registered in the backdrop

of such continuing disputes. The sequence of events disclosed in the complaint itself, coupled with the surrounding matrimonial circumstances and the material collected during investigation, assumes significance in determining whether continuation of the criminal prosecution would serve the ends of justice.

13. In ***State of Haryana v. Bhajan Lal*** (supra), the Hon'ble Supreme Court has categorised those cases where the criminal proceedings are manifestly attended with mala fide or have been instituted with an ulterior motive for wreaking vengeance as cases warranting exercise of the extraordinary jurisdiction of the High Court. The present case, in our considered view, falls within the aforesaid parameters. The substantial lapse of time in registration of the FIR, the circumstances in which the FIR ultimately came to be registered, the continuing matrimonial dispute between the prosecutrix and the son of petitioner No.1, the multiplicity of proceedings between the parties and the nature of the material collected during investigation, when considered cumulatively, persuade us that continuation of the criminal proceedings against the petitioners would amount to abuse of the process of the Court.

14. Consequently, without expressing any opinion on the merits of any other proceeding pending between the parties, and confining our consideration strictly to the question of continuation of the present criminal prosecution, we are of the considered opinion that the petitioners have made out a case for exercise of inherent jurisdiction under Section 528 of the BNSS, 2023. Accordingly, the petition is

allowed. FIR bearing Crime No.92/2025 registered at Police Station New Rajendra Nagar, District Raipur, for offences punishable under Sections 376 and 323 of the IPC, the consequential charge-sheet bearing No.69/2025 dated 14.07.2025, the order taking cognizance dated 18.07.2025 and all consequential proceedings arising therefrom, including Session Trial No.287/2025 pending before the learned Upper Sessions Judge (FTC), Raipur, are hereby quashed and set aside. The petitioners shall stand discharged from the aforesaid criminal proceedings. All pending interlocutory applications, if any, shall stand disposed of.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Alok