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IN THE HIGH COURT OF CHHATTISGARH AT

BILASPUR (C.G.)

WRIT APPEAL NO. 19 /2015

(DEVISION BENCH)

APPELLANT
(PETITIONER)

G.S. RAHI

aged about 57 years

S/o Shri Phool Singh Rahi

ASSISTANT - ENGINEER

Department Rural Engineering

Govt. of C.G.

R/o Naya Sarkanda Gali No. 4

P.S. & P.O. - Sarkanda -

Bilaspur Pin - 495001

Tah & Distt - Bilaspur (C.G.)

WA- 19/15
5/11/15
P.R.No.
Presented by Shri V.G. Samaskar
dated 02.1.15

VERSUS

RESPONDENTS

1. **STATE OF CHHATTISGARH**

Through: Secretary Department

-of-Home Mantralaya,

RAIPUR (C.G.) 492001

2. **SECRETARY**

Department of Panchayat

And Gramin Vikas Mantralaya

Raipur (C.G.) 492001

3. **COLLECTOR**

Jashpur - District Jashpur -

496331



Diomedes

27

4. **PROJECT ADMINISTRATOR**

Integrated Tribunal Development
Project Jashpur - 496331 Tah &
Distt- Jashpur (C.G.)

5. **SUPERINTENDENT-OF-POLICE**

Jashpur - District Jashpur-
496331 Tah & Distt- Jashpur
(C.G.)

6. **STATION HOUSE OFFICER**

Police Station - Jashpur
Pin - 496331
Tah & Distt - Jashpur (C.G.)

WRIT APPEAL UNDER SECTION 2(1) OF THE
CHHATTISGARH HIGH COURT (APPEAL TO DIVISION
BENCH) ACT, 2007

4/6/2015

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HIGH COURT OF CHHATTISGARH, BILASPUR

**D.B.: HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.**

WRIT APPEAL NO. 19 OF 2015

APPELLANT

G.S. Rahi

Versus

RESPONDENTS

State of Chhattisgarh and Others

**(WRIT APPEAL UNDER SECTION 2(1) OF THE CHHATTISGARH
HIGH COURT (APPEAL TO DIVISION BENCH) ACT, 2007)**

Appearance:

Mr. V.G. Tamaskar, Advocate for the Appellant.

Mr. R.K. Gupta, Dy. Advocate General for the State.

ORDER

(27th of January, 2015)

PER NAVIN SINHA, ACTING CJ

1. The present appeal arises from order dated 17.12.2014 in Writ Petition (Cri.) No.56 of 2013. The Learned Single Judge declined to and quash the prosecution of the Appellant in FIR No./Crime No.39 of 2012 also declined to interfere on the ground for lack of sanction under 197 Cr.P.C.

2. Learned Counsel for the Appellant sought to strenuously urge before us that as the Executive Engineer he had to supervise many works and it was not possible for him to monitor payments in each one of them. He had to depend upon his subordinates. He was not the



Cashier against whom allegations of embezzlement can be made. That the entire allegations relate to his status as an Executive Engineer with regard to construction of Culvert at village Salhekera Block, Jashpurnagar, which was an act in discharge of his official duties and therefore, sanction under Section 197 Cr.P.C. was mandatory before cognizance could have been taken.

3. Learned Counsel for the Appellant submitted that the Learned Single Judge has adequately noticed that the matter had been enquired into by a joint inspection team consisting of the Executive Engineer PWD, Jashpur, Executive Engineer Water Resources Department, Jashpur and Executive Engineer PMGSY, Jashpur before lodging the police report. It was next submitted that any financial embezzlement committed in the garb of official duties shall not come within the protection umbrella of Section 197 Cr.P.C. as correctly opined by the Learned Single Judge. The last submission was that the extraordinary power to quash the FIR should not be exercised unless it is a grave case calling for interference disclosing no offence at all on the fact of the allegations which was not the case presently.

4. We have considered the submissions on behalf of the Parties and are not inclined to entertain the appeal though for a different reasons.

5. The counter affidavit of the Respondents to the writ petition states that charge-sheet has been filed on 18.1.2012 and one person taken



into custody on 26.7.2012. The Appellant and four other persons were absconding and were not co-operating with the Police. Thus investigation could not be completed and supplementary charge-sheet will be filed after he is interrogated. His prayer for anticipatory bail has been rejected by the Trial Court as also by this Court. The Appellant clearly falls within the category of an "absconder". No doubt his absence is delaying the trial. Those who seek the protection of the law must first learn to respect the law.

6. The appeal is dismissed.

**Sd/-
Acting Chief Justice**

**Sd/-
P. Sam Koshy
Judge**