

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 70 of 2015

1. Vikash Pandey S/O Rameshwar Prasad Pandey Aged About 42 years
R/O Village Amlipadar, Police Station Devbhog, Distt. Gariyaband
Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Secretary Department Of Home Affairs,
Mantralay, New Raipur Chhattisgarh
2. Superintendent Of Police Gariyaband, Chhattisgarh
3. Station House Officer Mainpur, Distt. Gariyaband Chhattisgarh
4. Krishna Kumar Sahu S/O Shri Chinta Ram Sahu Aged About 43 Years
R/O Village Chandna Chowki Kareli Badi, Police Station Magarlod,
District Dhamtari Chhattisgarh

---- **Respondent**

For Petitioner	Ms. K. Tripti Rao, Advocate
For Respondent/State	Shri A. Pandey, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

24/03/2015

Heard learned counsel for the petitioner.

1. Petitioner has preferred this writ petition seeking quashment of the arrest warrant issued by the Chief Judicial Magistrate, Gariyaband, on 8-12-2014 during trial arising out of charge sheet filed by the concerned police in crime No.8/2012. The petitioner has also prayed for quashing of the First Information Report (FIR) and direction to the

respondent No.2 to submit the closure report in respect of said crime number.

2. Learned counsel for the petitioner would submit that no charge sheet has been filed against the petitioner and yet warrant of arrest has been issued by the Chief Judicial Magistrate. She would further submit that there is absolutely no evidence against the petitioner so as to implicate him in the matter, therefore, the FIR, the charge sheet and the subsequent proceeding deserve to be quashed.
3. Perusal of the FIR (Annexure – P/2) would reveal that the petitioner is named as one of the accused, who have committed cheating, forgery, concoction/fabrication of record for making illegal and forged appointment on the post of Shiksha Karmi Grade III within the jurisdiction of Janpad Panchayat, Mainpur, in the year 2007. While making the recruitment the concerned authorities of the Janpad Panchayat including the members of the committee have accepted such certificates/credentials including the forged marksheets, certificates under the forged signatures of the Hon'ble Governor, etc. At the relevant time, the petitioner was working as Member of the Janpad Panchayat and was also responsible, along with other members of the Janpad Panchayat to make appointment of Shiksha Karmi Grade III.
4. Order sheet of the trial Court recorded on 8-12-2014 would reveal that charge sheet has been filed against the petitioner under Section 173 (8) of the Cr.P.C., therefore, the submission that charge sheet has not been filed against the petitioner is contrary to record. It has also been recorded by the trial Court that the petitioner is avoiding arrest.

5. In course of hearing learned counsel for the petitioner also conceded that the petitioner's application for grant of anticipatory bail has already been dismissed by this Court.
6. In **State of Maharashtra & Ors. v. Arun Gulab Gawali & Ors**¹, it has been held by the Supreme Court that powers under Article 226 of the Constitution for quashing criminal proceedings have to be exercised very sparingly, with circumspection, that too in very rarest of rare cases.
7. In **Bharat Amratlal Kothari and another v. Dosukhan Samadkhan Sindhi and others**², it has been held that powers under Article 226 cannot be exercised to quash an FIR which made out *prima facie* commission of offence.
8. In **State of Andhra Pradesh v. Gourishetty Mahesh and others**³, the Supreme Court has reiterated the duty of the writ Court while considering prayer for quashment of criminal proceedings.
9. In **Padal Venkata Rama Reddy alias Ramu v. Kovvuri Satyanarayana Reddy and others**⁴, it has been held that quashing of criminal proceedings under Article 226 of the Constitution or under Section 482 CrPC is permissible only if the complaint does not disclose any offence or the same is frivolous, vexatious or oppressive. It is held that the High Court cannot get into meticulous analysis of facts as to likelihood of acquittal or conviction.

¹ AIR 2010 SC 3762

² (2010) 1 SCC 234

³ (2010) 11 SCC 226

⁴ (2011) 12 SCC 437

10. In **C.P. Subhash v. Inspector of Police, Chennai and others**⁵, it has been held that the High Court in ordinary course should not invoke its powers to quash such proceedings except in rare and compelling circumstances.
11. In view of the above and for the reason that the petitioner is named in the FIR; several witnesses have already been examined before the trial Court; the petitioner is avoiding arrest; and the charge sheet has already been filed against the petitioner under Section 173 (8) of the Cr.P.C., his innocence shall be determined by the trial Court on appreciation of evidence, the present is not a fit case for quashing the FIR and investigation or charge sheet or criminal proceedings.
12. As a sequel, the writ petition, being devoid of merit, is liable to be and is hereby dismissed.

J u d g e

Gowri

⁵ (2013) 11 SCC 559