

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 45 of 2013

- Piyush Tiwari S/o Basant Tiwari Aged About 35 Years R/o Vill Raipur, Tikrapara, R.D.A. Colony, PS & Dist Raipur (C.G.) (Actual PS Tikrapara, Town, Tehsil & Distt Raipur) Civil & Revenue Distt Raipur (C.G.) (Accused)

---- Petitioner

Versus

1. State Of Chhattisgarh. Through The Superintendent Of Police Surajpur (C.G.) Civil Distt Ambikapur, Revenue Distt Surajpur (C.G.) (Prosecution Agency)
2. Station House Officer Police Station Jainagar, Distt Surajpur (CG), Civil Distt Ambikapur, Revenue Distt Surajpur (C.G.) (Prosecution Agency)
3. Yaduwansh S/o Rameshwar, Aged about 24 years, R/o Vill Judwani, Post Karwa, PS Jainagar, Tahsil and Dist Surajpur (C.G.) Civil Distt Ambikapur, Revenue Distt Surajpur (C.G.) (Complainant)
4. Smt. Roopa Thapa @ Roopa Tiwari, Aged about 28 years, Occupation Police Constable, PS Surajpur, Dist Surajpur (C.G.) Civil Distt Ambikapur, Revenue Distt Surajpur (C.G.) (Accused in judicial custody)

---- Respondent

And

WPCR No. 44 Of 2013

- Piyush Tiwari S/o Basant Tiwari Aged About 35 Years R/o Vill Raipur, Tikrapara, R.D.A. Colony, PS & Distt Raipur, (Actual PS Tikrapara, Town, Tah & Distt Raipur) Civil and Revenue Distt Raipur (CG) (Accused)

---- Petitioner

Vs

1. The State Of Chhattisgarh Through The Superintendent Of Police Surajpur (C.G.) Civil Distt Ambikapur, Revenue Distt Surajpur (C.G.) (Prosecution Agency)
2. Station House Officer PS Jainagar, Distt Surajpur (CG) Civil Distt Ambikapur, Revenue Distt Surajpur (CG) (Prosecution Agency)
3. Hariram S/o Bahal Ram, Aged about 32 years, Agriculturist, R/o Vill Pendarkhi, Ps Jainagar, Tah & Distt Surajpur (C.G.) Civil Distt Ambikapur, Revenue Distt Surajpur (CG)(Complainant)
4. Smt. Roopa Thapa @ Roopa Tiwari, aged about 26 years, Occupation Police Constable, PS Surajpur, Dist Surajpur (CG) Civil Distt Ambikapur, Revenue Distt Surajpur (CG) (Accused in judicial custody)

--- Respondent

For Petitioner
For Respondent/State
For Respondent No.3

Mr. Raza Ali, Advocate
Mr. Adhiraj Surana, Dy. G.A.
Mr. Ashok Kumar Shukla, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

1/12/2015

Heard finally with the consent of learned counsel for the parties.

(2) In both the writ petitions, the petitioner has challenged the issuance of process by the Judicial Magistrate First Class, Surajpur on criminal complaint lodged by the respective complainants.

(3) Alleging inducement, cheating and fraud, the complainants have filed the present complaint *inter alia* mentioning that the petitioner and his wife have obtained payment of Rs.2 lakhs from each of them at Village Judwani, P.S. Jainagar District Surajpur, on false assurance that they will arrange employment for them as Constable in the Police Department. It is also alleged that the petitioner falsely projected himself to be the PA of Inspector General of Police Mr. Maravi and won over the complainants' trust and thereafter, provided the complainants false batch numbers and for few months, he deposited some amount in the bank account of the complainants as their monthly salary.

(4) Learned counsel for the petitioner would submit that when the Magistrate called for a report from the concerned Police Station, a report was submitted to the effect that in the statements before the Police, the complainants have mentioned the place of occurrence at a place which is not within the jurisdiction of Surajpur District, therefore,

the Jainanagar Police is not competent to investigate the matter. He would thus submit that the charge sheet has been submitted by a Police Station, which has no jurisdiction over the matter, therefore, the criminal case and issuance of process deserve to be quashed.

(5) Per contra, learned counsel for the complainants and learned State counsel as well would refer to the contents of the complaint to submit that payment of Rs.2 lakhs was made at Village Judwani P.S. Jainnagar District Surajpur, therefore, even if somewhat different statement has been made by the complainants in their statements to the police, the concerned Police does not lose jurisdiction over the matter. They would submit that it may be a subject matter of evidence.

(6) Having perused the papers annexed with the petition, it appears that in the complaint, the place of occurrence is mentioned as village Judwani P.S. Jainagar, therefore, *prima facie* Jainagar Police has jurisdiction over the matter. In any case, the Jainagar Police cannot refuse to file charge sheet when it was so directed by the Judicial Magistrate. It is different that the petitioner may raise a defence in the on going trial about jurisdiction of the Police or the Court, but for that, the issuance of process and the criminal case cannot be quashed at this stage.

(7) For the foregoing, the writ petitions are dismissed. However, liberty is reserved in favour of the petitioner to raise the objection during course of the trial.

Sd/-

Judge

(Prashant Kumar Mishra)