

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 358 of 2015

1. Geeteshwari Sharma (Pandey) D/o Parmanand Sharma, Aged About 25 Years, W/O Rakesh Pandey, Temporary Resident Ganjpara Durg, Thana City Kotwali, Durg, Tah. Durg, Civil And Rev. Durg Chhattisgarh, Permanent R/O S.A.F. Colony, Katulboard Thana Mohan Nagar, Durg, Tah. Durg Civil And Rev. Durg Chhattisgarh.

---- **Petitioner**

Versus

1. Rakesh Pandey, S/o Shri Kirti Pandey, Aged About 26 Years, Temporary R/O Ganjpara Durg, Thana City Kotwali, Durg, Tah. Durg, Civil And Rev. District Durg Chhattisgarh, Permanent R/O Village Murki, Thana Bemetara, Tah. Bemetara Civil And Rev. Distt. Bemetara Chhattisgarh.
2. District Magistrate, Durg Civil And Rev. Distt. Durg, Chhattisgarh.
3. State Of Chhattisgarh Through Station House Officer Durg, District Durg Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. Punit Ruparel, Advocate
For Respondent/State	:	Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23/11/2015

1. The instant petition under Section 482 of Cr.P.C. is filed for quashment of Complaint Case No.1569/2015, pending before the Judicial Magistrate First Class, Durg, whereby on complaint filed by the respondent, the complaint has been registered under Section 324 of I.P.C. against the wife.
2. Learned counsel for the petitioner submits that when the case was filed by the wife under Section 498A of I.P.C., this frivolous complaint has been filed. He would further submit that after making a report to the police, enquiry was made and the independent witnesses did not

support the same and therefore, the case was closed. However, subsequently, the complaint when was filed before the Court, the same was registered and therefore, submits that taking into the statement of the independent witness, the complaint be quashed.

3. No representation is made on behalf of the respondent/wife.
4. The State counsel counsel opposes the same and would submit that it is for the Trial Court to consider the defence and it can not be challenged by way of petition under Section 482 of Cr.P.C. when prima-facie case is found to be registered.
5. Perusal of the complaint would show that husband has filed a complaint, whereby the allegation was made that he was stabbed by the wife/petitioner. Thereafter, the evidence were adduced and the case has been registered. Statements of the complainant witnesses namely Rakesh Kumar Pandey, Ramashankar Sahu, Satish Kumar Sharma are on record. After going through the statement of these witnesses, prima-facie it appears that Trial Court has not committed any error to hold that prima-facie case is made out. The argument which has been advanced by the learned counsel for the petitioner that independent witnesses has not supported the case of the complainant, it is for the Trial Court, to appreciate the same.
6. Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of court and to quash the proceeding instituted on the complaint but such power could be exercised only in cases where the complaint does not disclose any offence or is vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance is taken by the Magistrate it is open to the Court to

quash the same in exercise of power under Section 482. After reading the complaint as a whole, it appears the allegations, in the light of the statement on oath of the complainant ingredients of the offence/offences are disclosed, and there is no material to show that the complaint is mala fide, frivolous or vexatious. Therefore, it would not be justified to intervene. The Supreme Court has repeatedly pointed out that the High Court should not, while exercising power under Section 482 of the Code, usurp the jurisdiction of the trial Court. The power under Section 482 of the Code has been vested in the High Court to quash a prosecution which amounts to abuse of the process of the Court. But that power cannot be exercised by the High Court to hold a parallel trial, only on the basis of the statements and documents collected during investigation or inquiry, for purpose of expressing an opinion whether the accused concerned is likely to be punished if the trial is allowed to proceed. Similar proposition has been reiterated by the Hon'ble Supreme Court in case of ***P.S. Meherhomji Vs. K.T. Vijay Kumar & Ors***, reported in ***(2015) 1 SCC 788***.

7. Accordingly, following the aforesaid proposition and reading the complaint, this Court is not inclined to invoke the extra ordinary jurisdiction vested in it under Section 482 of Cr.P.C.
8. Consequently, the petition has no merit and is dismissed accordingly.

Sd/-
(Goutam Bhaduri)
Judge