

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 1007 of 2015

1. Santosh Kumar Singh, S/o. Late Shri Mahatam Singh, aged about 45 years, R/o. In front of Sanjay Park, Ambikapur, Police Station and Post Ambikapur, Civil and Revenue District Surguja, Chhattisgarh.

---- **Petitioner**

Versus

1. State of Chhattisgarh, Through : the Secretary, Department of Home, Mahanadi Bhawan, Mantralaya, Naya Raipur (C.G.)
2. Station House Officer, Police Station - Jashpur, District Jashpur (C.G.)

---- **Respondents**

For Petitioner	:	Dr. N.K. Shukla, Sr. Advocate with Mr. Sushil Dubey, Advocate
For Respondent/State	:	Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06/11/2015

1. The instant petition under Section 482 of Cr.P.C. is filed for quashment of the FIR registered against the petitioner under Section 120B, 420, 467 & 468 of the I.P.C. at Police Station Jashpur, District Jashpur.
2. Learned counsel for the petitioner would submit that the dispute alleged is of civil nature and after house enquiry, it has lead to lodging of the report, which is not the spirit of criminal jurisprudence. Therefore, he would submit that the FIR at the threshold is liable to quashed.
3. On the other hand, learned State counsel opposes the argument.

4. Perusal of the FIR would show that complaint pertains to widening of the road from Jashpur – Sanna Road of 22 km., wherein on inspection it was revealed that though the road was said to have been widened but before the widening an amount of Rs.3,89,01,998/- was paid to the petitioner, who was contractor, in connivance with the government officers. On preliminary enquiry it was found, the work for which the payment was made it has not been done.
5. The Hon'ble Supreme Court in case law reported in **(2013) 10 SCC 581, Vinod Raghuvanshi Vs. Ajay Arora & Others**, at para 30 has held as under :-

30. It is a settled legal proposition that while considering the case for quashing of the criminal proceedings the court should not “kill a stillborn child”, and appropriate prosecution should not be stifled unless there are compelling circumstances to do so. An investigation should not be shut out at the threshold if the allegations have some substance. When a prosecution at the initial stage is to be quashed, the test to be applied by the court is whether the uncontroverted allegations as made, prima facie establish the offence. At this stage neither can the court embark upon an enquiry, whether the allegations in the complaint are likely to be established by evidence nor should the court judge the probability, reliability or genuineness of the allegations made therein. More so, the charge-sheet filed or charges framed at the initial stage can be altered/amended or a charge can be added at the subsequent stage, after the evidence is adduced in view of the provisions of Section 216 Cr.P.C. So, the order passed even by the High Court or this Court is subject to the order which would be passed by the Trial Court at a latter stage.”

6. Therefore, reading of the FIR would show that there is some substance and the FIR needs to be investigated, I do not find it proper to quash the FIR at threshold.
7. In a result, the petition is dismissed accordingly.
8. It is further clarified that the observation made in this order, shall not influence the investigation agency in any manner and it is only prima-facie observation has been made.

Sd/-
(Goutam Bhaduri)
Judge