

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 242 of 2014**

Arun Singh, S/o. Ambika Singh, Aged about 47 years, R/o. Village & Post Janakpur, P.S. Janakpur, Tahsil Bharatpur, District Korea (C.G.).

---- **Petitioner**

Versus

State of Chhattisgarh, Through the Police Station- Janakpur, Tahsil Bharatpur, District Korea (C.G.).

---- **Respondents**

For Petitioner	–	Shri S.C.Verma, Advocate.
For Respondent/State	–	Smt. M. Asha, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

02/09/2015

1. By this petition, the petitioner has sought for quashing of the charge sheet in Crime No.62/2013 registered at Police Station Janakpur, District Korea.
2. Learned counsel for the petitioner submits that the FIR is grossly delayed about more than one month and perusal of the report and documents would show that the petitioner supplied certain goods for which a direction was also given by the Block Development Officer to the complainant who is the Headmaster of Barela School wherein the amount of Rs. 42,845/- was directed to be released. However, the release of amount was withheld by the complainant. He further submits that the complainant since wanted to have the undue gratification for release of the amount, so on refusal to pay the same, a false report has been lodged

when the petitioner went to collect his amount. It is further contended that in any case in facts there could not be any intention under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act to commit such offence and the nature of the complaint would show that false averments have been made. He further referred to the document of medical report wherein no external injury was shown. He therefore submits that the complaint made is complete abuse of process of law so as to fulfill the demand of the complainant; consequently, the charge sheet be quashed.

3. Learned State counsel opposes the argument advanced by the learned counsel for the petitioner.

4. I have gone through the charge sheet attached with the complaint. The charge sheet would reveal that a written complaint was made by the complainant wherein it is stated that on 18.08.2013, the petitioner entered with one another person and he was slapped on his shoulder and an amount of Rs.50,000/- was asked for and complainant was abused in name of his caste. It is further reported that because of fear, he could not lodge the FIR earlier. Perusal of the statement of the complainant would show it falls in line with the FIR made. Therefore, reading of the statement and the FIR would show that categorical statements have been made and the authenticity of the same and their factual aspects are yet to be tested before the Court. At this stage, while exercising the power under Section 482 of Cr.P.C. this Court cannot hold that wrong statement has been made, only it has to be seen whether *prima facie* the contents of the statement and the allegations makes out an offence or not.

5. Hon'ble Supreme Court has laid down the guidelines to exercise the power under section 482 of Cr.P.C. and it is observed that power should be

exercised sparingly, with circumspection and not on the mere asking. The power has to be exercised depending upon facts and circumstances of each case- Mini trial or roving inquiry is not contemplated. Said proposition was laid down in case law reported in **(2015) 1 SCC 103** in between **Gunmala Sales Private Limited and others Vs. Navkar Promoters Private Limited and others.**

6. Further Hon'ble Supreme in a case reported in **(2014) 12 SCC 556** in between **Homi Rajvansh Vs. State of Maharashtra and others** has held at para 19 that inherent powers under Section 482 of the Code are meant to do real and substantial justice, for the administration of which alone it exists or to prevent abuse of the process of the court.

7. Hon'ble Supreme Court in the case of **Homi Rajvansh** (supra) in para 16 and 19 has held as under:-

“16. It is settled law that for considering the petition under Section 482 of the Code, it is necessary to consider as to whether the allegations in the complaint prima facie make out a case or not and the Court is not to scrutinise the allegations for the purpose of deciding whether such allegations are likely to be upheld in trial.”

“19. Though the High Court possesses inherent powers under Section 482 of the Code, these powers are meant to do real and substantial justice, for the administration of which alone it exists or to prevent abuse of the process of the court. This Court, time and again, has observed that extraordinary power should be exercised sparingly and with great care and caution. The High Court would be justified in exercising the said power when it is imperative to exercise the same in order to prevent injustice.”

8. Hon'ble Supreme Court further in case law reported in **(2014) 10 SCC 663** in between **Binod Kumar and others Vs. State of Bihar and another** at para 10 has laid down the principles which are reproduced herein below:-

“10. In *Indian Oil Corpn. v. NEPC India Ltd.* (2006) 6 SCC 736, this Court has summarised the principles relating to exercise of jurisdiction under Section 482 CrPC to quash complaints and criminal proceedings as under: (SCC pp. 747-48, para 12)

“12. The principles relating to exercise of jurisdiction under Section

482 of the Code of Criminal Procedure to quash complaints and criminal proceedings have been stated and reiterated by this Court in several decisions. To mention a few—*Madhavrao Jiwajirao Scindia v. Sambhajirao*

Chandrojirao Angre (1988) 1 SCC 692, *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335, *Rupan Deol Bajaj v. Kanwar Pal Singh Gill* (1995) 6 SCC 194, *CBI v. Duncans Agro Industries Ltd.* (1996) 5 SCC 591, *State of Bihar v. Rajendra Agrawalla* (1996) 8 SCC 164, *Rajesh Bajaj v. State (NCT of Delhi)* (1999) 3 SCC 259, *Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd.* (2000) 3 SCC 269, *Hridaya Ranjan Prasad Verma v. State of Bihar* (2000) 4 SCC 168, *M. Krishnan v. Vijay Singh* (2001) 8 SCC 645 and *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque* (2005) 1 SCC 122. The principles, relevant to our purpose are:

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the

criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.”

9. Therefore, by application of the aforesaid principles in the instant case only on the basis of the statement and the FIR, it cannot be stated that the complainant has made wrong statement. It is not within the jurisdiction of this Court to hold by reading the statement that intention to commit offence under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act was not existing while offence was alleged to be committed. The statement has to be tested at

the floor of evidence and truth has to be substantiated by the cross examination.

10. In view of the limited jurisdiction vested in this Court under Section 482 of Cr.P.C. to quash the proceeding or charge sheet, I am not inclined to invoke extra ordinary power of this court to quash the charge sheet.

11. In a result, petition is dismissed at the admission stage itself.

Sd/-
(Goutam Bhaduri)
JUDGE