

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 105 of 2015**

- Ashish Bajpai S/o Naresh Kumar Bajpai Aged About 28 Years
Occupation Sub Engineer, R/o Village Dabhra, Police Station & Post
Dabhra, Civil & Revenue District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Home Department,
Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur
Chhattisgarh
2. Superintendent Of Police Janjgir. District Janjgir Champa
Chhattisgarh
3. Station House Officer Police Station Dabhra, District Janjgir Champa
Chhattisgarh
4. Chief Executive Officer, Janpad Panchayat Dabhra, District Janjgir
Champa Chhattisgarh

---- Respondent

For Petitioner : Shri Awadh Tripathi, Advocate.
For Respondent/State : Shri R.K. Gupta, Deputy AG.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****16/11/2015**

1. In this petition under Article 226 of the Constitution of India the
petitioner has prayed for a direction to respondent No.2, SP, Janjgir
and respondent No.3, SHO, PS Dabhra, District Janjgir-Champa to
consider the petitioner's representation for verification of his
signatures over measurement book in respect of his handwriting/

signatures through handwriting expert and complete the investigation and if it is found that his signatures are not available in the measurement book, the petitioner be exonerated from Crime No.71/2014, registered at Police Station Dabhra, District Janjgir-Champa.

2. It appears, on the basis of written report lodged by Tehsildar, Dabhra on 6.3.2014, the concerned Police Station has registered the FIR No.71/2014. It is alleged in the report that for deepening of Gokul tank, Suman tank and Rani Sagar tank situated within Gram Panchayat Kusumjhar, Janpad Panchayat Dabhra, a sum of Rs.18,71,136/- was sanctioned under the MGNREGA Scheme. However, without carrying out any work, Sarpanch, her husband, her son, Panchayat Secretary, Rojgar Sahayak and the present petitioner who was working as Sub Engineer, RES, Janpad Panchayat, Dabhra together with Postmaster and one villager conspired to concoct and fabricate the forged muster roll to make forged entries of labourers and withdrew the amount without carrying out any work whatsoever. The petitioner allegedly prepared the measurement book and signed over the same. None of the labourers were paid any wages or salary and their names were mentioned in a forged and illegal manner.
3. It is the stand of the petitioner that he has never signed on the measurement book and the other accused persons have probably put his signatures without his knowledge to withdraw the amount, therefore, he is not at all responsible. It is further argued that

without getting the petitioner's handwriting or signatures verified from the handwriting expert, the police is proceeding ahead in the matter.

4. In the considered opinion of this Court, jurisdiction under Article 226 of the Constitution of India cannot be invoked to investigate the offence in the manner desired by the accused. In the event charge sheet is filed, the petitioner may move appropriate application in this regard before the trial Court. The petitioner is unnecessarily making effort to divert the investigation without presenting himself for investigation before the police.
5. It is settled that while exercising jurisdiction under Article 226 of the Constitution of India, the High Court would not ordinarily embark upon an inquiry whether the evidence in question is reliable or not; or whether on a reasonable appreciation of it accusation would not be sustained. The extraordinary jurisdiction of writ under Article 226 of the Constitution of India can be invoked where there is grave miscarriage of justice, which is the function/duty of the trial Court. It is true that the Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before framing charges otherwise it would be an instrument in the hands of a private complainant to seek vendetta to harass any person needlessly. At the same time, Article 226 of the Constitution of India is not an instrument handed over to an accused to short-circuit a prosecution and brings about its closure without full-fledged inquiry.

6. Thus, in a case like this, it is not permissible for any of the accused to short-circuit the prosecution or investigation to mould it in a way so as to affect the investigation. Ordinarily, the writ Court does not interfere with the investigation for which Investigating Officer is fully empowered under the CrPC to proceed in accordance with the procedure prescribed.
7. For the foregoing, this Court does not find any substance in the writ petition, the same deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

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