

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Writ Appeal No. 308 of 2015

Bharat Luniya S/o Late Shri Pritam Lal Luniya, aged bout 39 years, R/o Agrasen Square, P.S. Civil Lines, Tehsil and District Bilaspur Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh, through the Secretary, Home Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh
2. Superintendent of Police, Bilaspur, District Bilaspur, Chhattisgarh.
3. Station House Officer, Police Station Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh.
4. B.P.Singh, S/o Late Jagdish Narayan Singh, aged about 49 years, Chamber No. 18, High Court Premises, High Court of Chhattisgarh, Bodri, Bilaspur, P.S. Chakarbhata, District Bilaspur, Chhattisgarh.
5. Awadh Tripathi S/o Shri R.P.Tripathi, aged about 53 years, R/o Green Park Colony, In front of SBR College, Raipur Road, Bilaspur, P.S. Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Kanak Tiwari, Senior Advocate with Shri R.S.Baghel and Ms. Shailja Shukla, Advocates.
For Respondent No. 1 to 3	:	Shri Prafull N Bharat, Additional Advocate General
For Respondent No. 4 & 5	:	Shri Sandeep Dubey, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board

Per Navin Sinha, Chief Justice

24/06/2015

1. We have heard Learned Senior Counsel for the Appellant and the Respondents.
2. Learned Senior Counsel for the Appellant sought to persuade us with detailed legal submissions that the order under appeal was not sustainable for various reasons.
3. In the nature of the order that we propose to pass, it is not considered necessary to take notice of the facts of the case except to the extent necessary for the purpose of the present order so as not to prejudice the case of either party.

4. The present appeal arises from order dated 12.5.2015 passed by the Learned Single Judge in Writ Petition (Criminal) No. 103 of 2015. The Learned Single Judge disposed the writ petition with a direction to investigate in accordance with law and submit report before the competent criminal court. The direction in effect therefore was to lodge a First Information Report (hereafter called 'the FIR') and submit the investigation report in accordance with law.

5. Subsequent to the order passed by the Learned Single Judge, we are informed that an FIR bearing Crime No. 235 of 2015 has been registered by the police. In the appeal, the FIR has also been brought on record and the prayer is to set aside the order of the Learned Single Judge including registration of the FIR as Crime No. 235 of 2015. The registration of the FIR is a subsequent development and a fresh cause of action. The order of the Learned Single Judge, in our opinion, has worked itself out. It shall be wholly inappropriate exercise of jurisdiction to entertain a fresh challenge to the FIR directly in appellate jurisdiction. The correctness or incorrectness of the order of the Learned Single Judge has now become an academic exercise as we cannot in the appellate jurisdiction touch or pronounce upon the FIR directly.

6. The remedy sought in the appeal for quashing of the FIR, being a fresh cause of action, it is open for the Appellant to take fresh steps in accordance with law. If any such application is filed, naturally and it goes without saying that it has to be considered on its own merits without being influenced by the order dated 12.5.2015.

7. At the risk of repetition, we may clarify that our reluctance to entertain this appeal may not be construed as concurrence or affirmation of the order dated 12.5.2015 as that has now become an academic issue.

8. The writ appeal stands disposed with the aforesaid observations.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE