

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No.1018 of 2015**

Yashwant Kumar Sharma, S/o. Shri Dayal Prasad Sharma, Aged About 30 Years, R/o. C.S.E.B. Colony, S.F.-646, Korba East, Police Station- Rampur, Civil & Revenue District- Korba, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh, Through Police Of Police Station Ghimka, Revenue District- Rajnandgaon, District- Rajnandgaon, Chhattisgarh.
2. Devendra Kumar Sahu, S/o. Late Narayan Lal Sahu, Aged About 33 Years, Occupation- Co-operator, Grade- III (Lineman), R/o. Ghumka, Civil & Revenue District- Rajnandgaon, District- Rajnandgaon, Chhattisgarh

---- **Respondents**

For Petitioner : Mr. Jitendra Gupta, Advocate.

For State/Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****16/11/2015**

1. The instant petition under Section 482 of Cr.P.C. is filed to quash the FIR dated 11.03.2015 registered against the petitioner under Section 186, 353, 294, 506/ 34 of IPC.
2. Learned counsel for the petitioner submits that the mother of the petitioner had applied for electric connection and no objections were given by the other agricultural department, however, the supply of connection was withheld and in order to enquire about the same what is the reason for withholding the connection, the petitioner went to the office and did not did any overt act. He further submits that in any case making of enquiry will not lead the commission of offence and for the reasons best known to the electricity department the delay was deliberate and only an enquiry was made for causing of the delay. Therefore, he would submit that under the facts and circumstances of the case, the FIR is liable to be quashed at the threshold.

3. Per contra, learned State counsel opposes the argument.
4. I have gone through the FIR and the statement recorded under Section 161 of Cr.P.C. The defence which is raised by the petitioner, at this stage, cannot be considered in view of the fact that the statement to inculcate the petitioner for the offence cannot be certified that they are totally false and fabricated. This Court, at this stage, while exercising the power under Section 482 of Cr.P.C. cannot go into mini trial of this case, it has to be adjudicated by the trial Court after the evidence and cross examination of the witness.
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. In view of the above, I am not inclined to invoke the extra-ordinary jurisdiction of this Court vested in it under Section 482 of Cr.P.C. to quash the FIR at the threshold.
7. Accordingly, the petition fails and it is dismissed at the motion stage itself.
8. It is noted that the Court has not expressed any opinion while dismissing the petition.

Sd/-
(Goutam Bhaduri)
JUDGE

Ashok