

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1124 of 2015

G. Rambabu S/o Late G. Maria Das Aged About 29 Years R/o Qt. No. Type 2, 51/ A, Railway Colony Kirandul, Police Station Kirandul, Civil & Revenue District Dantewada Chhattisgarh

---- Petitioner

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Kirandul, Civil & Revenue District Dantewada Chhattisgarh

---- Respondent

For Petitioner : Mr. Arun Kumar Shukla, Advocate
For Respondent/State :- Mr. Anupam Dubey Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/12/2015

1. The instant petition under section 482 of Cr.P.C. is filed to quash the FIR dated 11.05.2015 registered against the petitioner under sections 294,452,506 of IPC.
2. Counsel for the petitioner submits that the instant petition filed under section 482 of Cr.P.C. for quashing the FIR registered against the petitioner under sections 294,452,506 of IPC by one A. Jaydeva. He further submits that A Jaydeva lodged a false complaint case against this petitioner stating that the petitioner has enticed the wife of the complainant and eloped with her and stayed at hotel at Vishakhapatnam and subsequently on such account has abused by

committing trespass in the house.

3. Counsel for the petitioner further submits that only on the presumption a report was made and nothing exists in the like nature of offence committed by the petitioner and consequently the FIR filed by A. Jayadeva against the petitioner be quashed being frivolous.
4. Per contra State counsel opposes the argument.
5. Considering the statement recorded under section 161 of Cr.P.C. and the FIR. The defence which is raised by the petitioner, at this stage can not 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.
6. 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.”

7. 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.
8. Accordingly, the petition fails and it is dismissed at the motion stage itself.
9. It is noted that the Court has not expressed any opinion while dismissing the petition.

Sd/-
(Goutam Bhaduri)
JUDGE