

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 69 of 2016**

1. Sushil Kumar, S/o Shri Tilku Ram Satnami Aged About 34 Years R/o Village Piparbhattha, Police Station & District Bemetara Chhattisgarh.
2. Manglu Ram S/o Naresh Sahu Aged About 55 Years R/o Village Piparbhattha, Police Station & District Bemetara Chhattisgarh.
3. Lobhan Verma S/o Shri Dukhwa Verma Aged About 63 Years R/o Village Sonbhatta, Police Station Bemetara, District Bemetara Chhattisgarh.

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station Bemetara, District Bemetara Chhattisgarh.
2. Tirith Ram Satnami S/o Late Nanku Ram Aged About 34 Years Caste Satnami, R/o Village Piparbhattha, Police Station & District Bemetara Chhattisgarh.

-----Respondents

For Petitioners:	Shri CR Sahu, Advocate.
For Respondent No.2:	Shri UKS Chandel, Advocate.

Single Bench: Hon'ble Shri P. Sam Koshy, J
Order On Board

18.7.2016

1. The present Cr.M.P has been preferred seeking for a relief of quashment of FIR lodged against the Petitioners in Crime No.363/2015 at police Station Bemetara, District Bemetara for the offence under Sections 420, 467, 468 and 471/34 IPC.

2. Learned Counsel for the Petitioners assailing the registration of the FIR submits that in fact the Complainant Tirith Ram Satnami is not the son of Nanku Satnami who has filed the false complaint against the present Petitioners and the police authorities, without verification, have straight away registered the FIR and therefore sought for its quashment.

3. Learned Counsel for Respondent No.2 opposing the Petition submits that the Complainant in his complaint has specifically given the details of the nature of the offence committed by the Applicants. According to the complainant, the present Applicant particularly Sushil Kumar had by playing a fraud with the accused and on fabricated documents wherein Nanku Satnami i.e. father of the Complainant, Teerath Ram was shown to be issue less and showing him to be issue less without the notice and knowledge of the present Complainant, got the property belonging to Naku Santnami be transferred in the name of the Applicants. He also ventured to submit that the accused Sushil Kumar in fact is the Kotwar of the village. Yet, he has done this act which further adds to the seriousness of the offence. It was also submitted by the State Counsel that immediately on receiving report from the Complainant, Teerath Ram, the police authorities in the course of the investigation had also collected statements of certain witnesses who have also accepted the fact that the Complainant Teerath Ram was in fact the son of Naku Satnami.

4. Thus, from the above submissions made by learned Counsel for either parties, what is an admitted position is that there is some substance in the allegation made by Complainant Tirth Ram. Now whether the allegations so made are true or not has to be thrashed out by way of adducing evidence by either side to show that the Complainant is not the son of Nanku Satnami and at the same time, the Complainant also would have to prove that he is in fact the legal heir of Nanku Satnami and had all the rights to inherit any property in the name Nanku Satnami.

5. So far as the powers of High Court under Section 482 Cr.P.C is concerned, the Supreme Court in the case of **(2013) 10 SCC 581 (Vinod Raghuvanshi vs. Ajay Arora)** has in paragraph 30 held as under:-

“30. It is a settled legal preposition 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 inquiry, 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.”

6. The Hon'ble Supreme Court, in **(2012) 9 SCC 460 (Amit Kapoor vs. Ramesh Chander and Another)** has very clearly laid down the principle that inherent as well as revisional jurisdiction should be exercised cautiously. If the jurisdiction under Section 482 Cr.P.C in relation to quashing of a First Information Report is circumscribed by the factum and caution afore noticed, in that event, the revisional jurisdiction, particularly while dealing with framing of a charge, has to be even more limited. At the initial stage of framing of a charge, the Court is concerned not with the proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that Court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage.

7. The Supreme Court in **(2014) 10 SCC 616 (N. Soundaram Vs. P.K. Pounraj and Another)** in paragraph 13 has categorically held that:-

“13. It is well settled by this Court in a catena of cases that the power under Section 482 Cr.P.C has to be exercised sparingly and cautiously to prevent the abuse of process of any court and to secure the ends of justice.

The inherent power should not be exercised to stifle a legitimate prosecution. The High Court should refrain from giving a prima facie decision unless there are compelling circumstances to do so. Taking all allegations and the complaint as they were, without adding or subtracting anything, if no offence was made out, only then the High Court would be justified in quashing the proceedings in the exercise of its power under Section 482 Cr.P.C. An investigation should not be shut out at the threshold if the allegations have some substance.”

8. Considering the above legal position as also the evidence which has been brought on record, this Court is of the opinion that it is not a fit case for interfering with the registration of FIR. The parties would be at liberty to take appropriate defence before the appropriate Court of law at the appropriate stage.

9. The instant Cr.M.P being devoid of merits, the same is accordingly dismissed.

Sd/-

(P. Sam Koshy)

JUDGE