

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No. 59 OF 2016**

Dharmendra Patel son of Shri Lal Bahadur Patel, Caste Kurmi, aged about 28 years, at present Police Station Baikunthpur, District Korla (Chhattisgarh)

---Petitioner**Versus**

1. State of Chhattisgarh, through the Secretary, Home Department (Police), Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Superintendent of Police, District Korla (Chhattisgarh)
3. Station House Officer, Police Station Chirmiri, District Korla (Chhattisgarh)

---Respondents

For Petitioner	: Ms. Hamida Siddiqui, Advocate.
For State/Respondents	: Mr. Dilmanrati Minj, Dy. G.A. and Mr. Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****04/04/2016**

1. The petitioner herein seeks quashment of FIR registered on 03/04/2015 in Crime No.118/2015 under Section 354 of the Indian Penal Code (in short 'IPC') at

Police Station Chirmiri, District Korla as well as the charge sheet filed by Police Station, Chirmiri, District Korla for the said offence, which is subject matter of Criminal Case No. 630/2015 pending in the Court of Judicial Magistrate First Class, Chirmiri, District Korla, Chhattisgarh.

2. The writ petition has been filed by petitioner stating *inter alia* that taking the FIR and charge sheet at their face value, no offence under Section 354 of the IPC is made out and as such, FIR registered and charge sheet filed subsequently against the petitioner in the jurisdictional Criminal Court deserves to be quashed.

3. Learned Counsel for the petitioner would submit that petitioner has been falsely implicated as he is Police Constable, who has registered criminal case against Deepak Kumar Dhruw, husband of the complainant under the provision of NDPS Act, in which, charge sheet has also filed against the complainant's husband, therefore, it is a false case and taken the FIR and charge sheet at their face value, no offence under Section 354 of the IPC is made out, therefore, writ petition deserves to be

quashed.

4. In the matter of **State of Haryana & Others v. Bhajan Lal & Others**¹, Their Lordships of the Supreme Court have laid down the parameters in which criminal proceeding can be quashed by this Court in exercise of extraordinary jurisdiction under Article 226 of Constitution of India and observed in paragraph-102 as under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first

¹ 1992 Supp (1) SCC 335

information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

5. Applying the law laid down in **Bhajan Lal** (supra), if the facts of the present case are examined, it would appear that Smt. Kajal Manikpuri, Smt. Prabhadevi Gond, Kirti Dhruw and Chandeshwari Gond have categorically made statements that the applicant on 09/02/2015 while making search, taken the complainant in kitchen and asked her to make illicit relation with him which she has reported on 03/04/2015 before the Superintendent of Police, Korla, and the jurisdictional Police has investigated and submitted a charge sheet against the petitioner.

6. After hearing learned counsel for the petitioner and going through the record of the case and after going through the statements of the witnesses mentioned hereinabove namely, Smt. Kajal Manikpuri, Smt. Prabhadevi Gond, Kirti Dhruw and Chandeshwari Gond, in the considered opinion of this Court, petitioner has failed to make out a case for quashing of the FIR and charge sheet and also failed to bring his case within any of the clause mentioned in **Bhajan Lal** (supra). It cannot be held that allegation made in the FIR as also in the charge sheet are taken at their face value, do not disclose any offence under Section 354 of the IPC. Consequently, writ petition deserves to be and is accordingly dismissed at the stage of admission itself, without notice to other side.

Sd/-

(Sanjay K. Agrawal)
JUDGE