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**HIGH COURT OF CHHATTISGARH, BILASPUR****Cr.M.P No. 1175 of 2015**

1. Suryakant Naidu, S/o Late C.K. Naidu Aged About 63 Years R/o Behind Community Center Katghora, P.S. Katghora, Thasil, Katghora Rev. & Civil Distt. Korba, Chhattisgarh.
2. Smt. Usha Naidu W/o Surya Kant Naidu Aged About 60 Years R/o Behind Community Center Katghora, P.S. & Tahsil Katghora, Rev. & Civil Distt. Korba, Chhattisgarh.
3. Smt. Ranjana Rai D/o Late S.D. Rai Aged About 54 Years R/o 100 Bed Health Colony Korba, P.S. Balco, Tahsil, Rev. & Civil Distt. Korba, Chhattisgarh.
4. Smt. Kusham Naidu W/o S. Ram Kishore Rao Aged About 37 Years R/o Infront Of Additional Sessions Judge,s Court Katghora, Korba Road, Katghora, P.S. & Tahsil Katghora, Rev. & Civil Distt. Korba, Chhattisgarh.
5. Shri Kant Naidu S/o Surya Kant Naidu Aged About 34 Years R/o Behind Community Center Katghora, P.S. & Tahsil Katghora, Rev. & Civil Distt. Korba, Chhattisgarh.

**---- Petitioners****Versus**

1. Smt. Rachna Naidu, W/o Sanjay Naidu Aged About 30 Years R/o Behind Katghora Hospitals Colony Katghora, P.S. Katghora, Thasil Katghora, Rev. & Civil Distt. Korba, Chhattisgarh. Present Address R/o Aamapara Dhamtari, P.S. Dhamtari, Thasil Rev. & Civil Distt. Dhamtari, Chhattisgarh.
2. State Of Chhattisgarh Through Station House Officer, P.S. Katghora, Thasil Katghora, Rev. & Civil Distt. Korba, Chhattisgarh.

**-----Respondents**


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| For Petitioner:            | Shri SV. Purohit, Advocate.           |
| For Respondent No.1:       | Shri SRJ Jaiswal, Advocate.           |
| For Respondent No.2/State: | Shri Rajendra Tripathi, Panel Lawyer. |

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

**25.7.2016**

1. By way of the present Petition under Section 482 Cr.P.C, the Petitioners have sought for quashment of the FIR dated 21.9.2015 registered in Crime No.227/2015 at P.S Khatgora whereby the Petitioners have been implicated as

accused for the offence punishable under Section 498-A/34 IPC.

2. Learned Counsel for the Petitioners assailing the registration of the FIR at P.S Katghora submits that the case lodged by the Complainant/Respondent No.1 is totally false and fabricated and has been filed only with an intention to harass the Petitioners for no fault of theirs. He further submits that first of all there is an inordinate unexplained delay in the lodging of the FIR as the date of incident alleged is of 24.8.2015 and the FIR in this case has been recorded on 21.9.2015 which by itself shows the delay in the lodging of the FIR. There is also no plausible explanation given by the Complainant for the delay caused in lodging of the FIR. He further submits that even the documents which have been filed by the Complainant/Respondent No.1 i.e. Exhibits No.A-9 & 10 also are all fabricated documents and have been cooked up only for the purpose of filing of the FIR for getting the offence registered against the Petitioners. He submits that it is also a case where the mala fides on the part of Respondent No.1 stand established from the fact that there was a compromise agreement between the parties entered into before the Family Counselling Center, District Korba held on 12.9.2015. He further submits that prima facie, from the reading of the complaint itself, it would reflect that the ingredients that are required for making out an offence under Section 498-A is not available on record. No medical evidence also is adduced by the Complainant to establish the assault part. All the in-laws were separately residing and have been falsely implicated.

3. Thus, for all these reasons, the Court below, relied upon the decision rendered by the Supreme Court in *AIR 2013 Supreme Court 518 (Dimpey Gujral and Ors. vs. Union Territory Through Administrator, U.T. Chandigarh and Ors.)* submitted for quashing of the criminal proceedings.

4. Learned Counsel for Respondent No.1. In turn, opposes the Petition and submits that a plain reading of the complaint lodged by the Complainant/Respondent No.1 by itself reflects the nature of offence to have been committed by the Petitioners/accused persons. He further submits that whether any case is made out or not or the matter can still be considered at the time of filing of the charge sheet. In case no evidence is found by the police authorities in the course of investigation, it would be reflected in the charge sheet and the Petitioners may not be made accused also.

5. Learned State Counsel submits that the contentions which the Petitioners have now raised in the present Petition are all facts which can be brought to the notice of the Court at the time of framing of the charge also.

6. Having considered the rival contentions put forth and from the bare perusal of the complaint filed by Respondent No.1/Complainant, what clearly reflects is that it cannot be said to be a case of no evidence. A prima facie reading of the complaint lodged by Respondent No.1 thus spells out certain offences to have been committed by the Petitioners. Now whether there are materials available to make out an offence are all matter of investigation and which would form part of the charge sheet.

7. Learned Counsel for Respondent No.1, at this juncture submits that on 19.7.2016, the charge sheet was filed by the police before the Court but because of certain technicalities, the same has been returned and the same shall be filed within a couple of days.

8. 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.

9. 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.”

10. The instant Cr.M.P thus being devoid of merits, the same is accordingly rejected.

Sd/-

(P. Sam Koshy)

**JUDGE**