

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 18 of 2014**

Nitin Kashyap S/o Kamdev Kashyap, aged about 32 years, R/o
Sirsakala, Bhilai-3, PS Bhilai, District Durg.

---- **Petitioner**

Versus

1. State of Chhattisgarh Through Secretary, Home, Mahanadi Bhawan,
Mantralaya, District Raipur (CG).
2. SHO Chhawani, Bhilai, District Durg.

---- **Respondents**

For Petitioner	:	Shri BP Singh, Advocate.
For Respondents/State	:	Shri OP Sahu, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

07/11/2016

1. The present petition under Section 482 CrPC has been filed seeking for quashment of FIR dated 12.05.1999 in Crime No.311/1999 registered at Police Station, Chhawani, Durg.
2. The sole contention of the petitioner is that the FIR which has been lodged at Chhawani, Durg is no longer sustainable for the reason that for the same offence the petitioner has already been subjected to trial in FIR which was lodged at Police Station, Kotwali, Raipur in Crime No. 300/1999 and after the conclusion of the trial, the petitioner has been acquitted vide judgment of acquittal dated 30.07.2013 for the same charges which has been levelled in the present case.
3. The counsel for the petitioner referring to Article 20(2) of the

Constitution of India submitted that the Constitution itself gives a protection to the petitioner from being prosecuted twice for the same offence. In addition, in support of his contention he relied upon the decision of Supreme Court in cases of Ravinder Singh Vs. Sukhbir Singh & Others, reported in 2013(9) SCC 245 and in case of Monica Bedi Vs. State of Andhra Pradesh, reported in 2011 (1) SCC 284 (paras 26 to 29).

4. The allegation against the petitioner in the FIR in crime No.311/1999 is that, the petitioner is said to have used a fake and forged mark-sheet/certificate for the purpose of getting admission in the Industrial Training Institute, Bhilai (in short, ITI). Subsequently, the Principal of the said ITI on an inquiry found that the certificates which have been used by the petitioner for getting admission in the said ITI are fake and forged one and therefore, lodged an FIR at Police Station, Chhawani, Durg as Crime No.311/1999 registering an offence against the petitioner under Sections, 420,466,467,468 and 471 IPC. Later on, the charge sheet was also filed. The matter has been put to trial before the Chief Judicial Magistrate, Durg vide Criminal Case No. 4946 of 2000.
5. Counsel for the petitioner further submits that the police authorities had also filed a similar complaint for the same offence at Police Station, Kotwali, Raipur, vide Crime No.300/1999 on 29.11.1999 which was lodged by S.K. Garg, Zonal Officer, Board of Secondary Education, Raipur. According to the petitioner, in the said case against FIR lodged at Police Station, Kotwali, charge sheet was also filed before the court and the petitioner was subjected to trial vide Criminal

Case No.327/2012 (re-numbered), wherein the JMFC, Raipur, vide judgment dated 30.07.2013 has acquitted the petitioner. Since the petitioner has already been subjected to trial on the FIR which was lodged at Police Station Kotwali, Raipur, in the same set of facts and for the same offence, he cannot be forced to undergo trial again for the same offence on the FIR which has been lodged at Police Station, Chhawani, Durg.

6. State counsel Shri OP Sahu, Govt. Advocate, submits that he relies upon the reply filed by the State Govt. to be his argument. In addition, he submits that it was the duty of the petitioner to have informed the court immediately that there is already an FIR lodged against him and that he cannot be put to trial before two courts for the same offence. According to him, it is difficult for the police authorities to know about the fact that a same offence against the same person has been lodged before two different police stations, and therefore, the petitioner was duty bound to have informed the concerned authorities promptly. Having not done so, the petition deserves to be dismissed at this juncture.
7. He further submits that the FIR lodged at Police Station, Chhawani, which is under challenge in the present petition was the FIR which was lodged first and therefore, it was the subsequently lodged FIR which he should have sought for quashment if at all it was not tenable/sustainable. State counsel relies upon the judgment of Supreme Court in case of Shivshankar Singh Vs. State of Bihar & another, reported in 2012 (1) SCC 130.

8. Lastly it was contended by the State counsel that the present petition has been preferred after a period of about 15 years from the date of filing of FIR and charge sheet and therefore, the petition deserves to be rejected on the ground of same being filed with inordinate delay and prayed for dismissal of the petition.
9. Having heard the rival contentions put forth by the counsel for the parties, what is relevant at this juncture is to verify whether the charges/allegations which have been levelled against the petitioner in the two FIRs which according to him is of the same offence, are same or not?
10. For determining the said issue, what is relevant is to understand the act or the acts which have been committed by the petitioner and the other accused persons which led to filing of two FIRs. So far as FIR lodged at Police Station, Chhawani, which is under challenge in the present petition i.e. Crime No. 311/1999 is concerned, the same was lodged by the Principal of the ITI alleging that the petitioner has obtained admission in the said ITI on the basis of document which was put for verification and during the course of verification it was found that the documents were forged and fake, and therefore, the said FIR was lodged by the Principal for the fraud/cheating played by the petitioner in getting admission in the said ITI.
11. Now, if we look at the FIR which was lodged at Police Station Kotwali, Raipur, upon which Crime No.300/1999 was lodged, it would clearly reflect that the same has been lodged by the Zonal Officer of the

Board of Secondary Education, Raipur, alleging that the petitioner along with other accused persons have committed an act of cheating and fraud by manipulating and tampering official records of the Board of Secondary Education, Raipur and have obtained a fake and fabricated certificate. Thus, have played fraud with the Board of Secondary Education, Raipur.

12. A plain reading of the FIR which was lodged by the Zonal Officer of Board of Secondary Education, Raipur on 29.11.1999 at Police Station, Kotwali, Raipur, would clearly reflect that here the allegation against the petitioner and the other accused is that of playing fraud with the Board of Secondary Education, Raipur, inasmuch as, managing to get fake and fabricated documents prepared.
13. Thus, a plain reading of the two FIRs and the contents of the FIRs clearly establishes the fact that the nature of offence alleged against the petitioner in the two FIRs are entirely different and that the FIRs which have been lodged at two different places also are independent to each other and arise out of independent cause of action one arose at ITI, Bhilai for which the FIR was lodged at Police Station, Chhawani and second at Police Station, Kotwali, Raipur which is an independent cause of action though the nature of allegations may appear to be similar, but it is infact not similar.
14. Further, a perusal of the complaint clearly reflects that the offence which has been committed by the petitioner is that of creation of fraudulent and fake document which took place within the jurisdiction

of Police Station, Kotwali, Raipur and the second cause of action arose at Bhilai where on the basis of fake and fabricated document, the petitioner took admission at ITI, Bhilai. Thus, it clearly reflects that the two offences are entirely different and are not the same so as to give him benefit under Article 20(2) of the Constitution of India.

15. Once this court is of the opinion that the charges levelled against the petitioner at both the Police Stations are entirely different and arose from the different cause of action, all other issues arising out of the petition which have been assailed by the petitioner becomes inconsequential and the petition deserves to be and is hereby dismissed.
16. Before parting with the matter, it would be relevant at this juncture to direct the court below where the trial of the petitioner is pending, to look into the seniority of the present case and try for an expeditious disposal of the case. The court below may not grant long adjournment and shall invoke all the provisions of law which have been conferred upon the trial court so far as summoning of witnesses and documents are concerned and shall use the same for the expeditious disposal of the case.
17. With the aforesaid observations, the present petition under Section 482 CrPC stands dismissed.

Sd/-
(P.Sam Koshy)
Judge