

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 70 of 2016

Vinod Singh S/o Sukhdev Singh Aged About 47 Years R/o Model Town, Smriti Nagar, Bhilai, District Durg Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Pulgaon, District Durg Chhattisgarh.

---- Respondent

For applicant - Shri B.P. Singh, Advocate.
For Respondent/State – Shri Ramakant Mishra, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

19/01/2016

1. Instant petition is to quash FIR bearing No.373/2015 registered at Police Station Pulgaon, District Durg against the petitioner for offence under Section 312 of IPC.
2. Learned counsel for the petitioner submits that entire allegation of gang rape upon the prosecutrix has been attributed to Bhushan Yadav, Janeshwar Yadav and Ramnarayan Yadav and only on the suspicion the petitioner has been inculpated. He further submits that even on the statement of Smt. Uma Yadav only there has been suspicion has been stated and no iota of evidence is present against the petitioner, therefore only on the presumption petitioner cannot be vexed for criminal case, criminal trial since there is no evidence against the petitioner. He therefore submits that FIR and the charge sheet against the petitioner be quashed.
3. Learned State counsel vehemently opposes the same and went through the statement of mother of the prosecutrix Smt. Uma Yadav, statement of the prosecutrix and statement of the Sarpanch Jai Dahariya and would submit that as per statement of the prosecutrix direct

allegations have been attributed to this petitioner which has to be read along with the statement of the Sarpanch. He therefore submits that this fact has to be appreciated during trial and therefore no merit is made out.

4. I have perused the documents and the statement. Perusal of the statement of Uma Yadav mother of the prosecutrix wherein she has stated that she has apprehension that her daughter who was subjected to rape was aborted. Subsequently, in statement of the prosecutrix she has stated that she was subjected to abortion in hospital which is situated at Junwani Chowk Smriti Nagar namely Rajvanshi hospital which also support statement of Jai Dahriya Sarpanch. Further reading statement of K.K. Sahu it would reveal that he was instrumental while leaving prosecutrix in the Rajvanshi Hospital and also they met Dr. Singh. Therefore, reading statement altogether would show that prima facie it has been stated the involvement of the petitioner in the crime. It cannot be at this stage adjudicated that petitioner being Director of the hospital was not involved in the crime specially while considering the statement of K.K. Sahu wherein it is stated that they have met Mr. Singh at Hospital. The same fact has to be ascertained during trial.

5. Therefore, after going through the FIR and statement on record defence at this stage cannot be considered in view of the fact the unilateral statement of the petitioner cannot be certified that it is a true version as against evaluating the same against statement of the witnesses.

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

