

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 199 of 2016

Niraj Jain, S/o. Shri P.C. Jain, Aged About 44 Years, R/o. P.C. Jain Company, C.A. Circuit, House Road, Jagdalpur, District Bastar Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through : Secretary, Department Of Home Police Mahandi Bhavan Naya Raipur, Raipur Chhattisgarh
2. Superintendent Of Police, Jagdalpur Chhattisgarh
3. Station House Officer, Police Station- Kotwali, Jagdalpur, District Bastar Chhattisgarh
4. Ajay Rathi, S/o. Shri Radhakrishna Rathi, Aged About 45 Years, R/o. House No 168, Sun City Jagdalpur, District Bastar Chhattisgarh
5. Sargam Chandak, S/o. Shri Mohanlal Ji Chandak, Aged About 24 Years, R/o. Baldev Estate, Jagdalpur District -Bastar Chhattisgarh

-----Respondents

For Petitioner	: Ms. Fouzia Mirza, Advocate
For Respondent/State	: Mr. Ashish Shukla, Govt. Advocate
For Respondent No.4	: Mr. M.L. Sakat, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/07/2017

Heard on admission.

1. Counsel for the petitioner submits that petitioner lodged an FIR on 11.05.2016 against Prakash Gandhi and two others alleging in it that on the same date two persons came to his residence at 2.00 pm for the purpose of serving notice and at that time, one Prakash talked to him on phone that he is speaking on behalf of Ajay Rathi and using abusive words he told him to accept the notice, thereafter two

unknown persons threatened him with dire consequences. It is submitted that it was in counter blast to this complaint, the complainant- respondent No.5 submitted a report on 12.05.2016 in P.S. - City Kotwali, Jagdalpur alleging in it that he along with Ajay Rath and Umesh Pandey had been to the residence of petitioner for service of summons issued by the Court. Petitioner refused to accept the summons and used abusive words and then also gave threatening to kill them. On the basis of which, FIR has been lodged in P.S. - Kotwali. It is submitted by the counsel for the petitioner that criminal case has been lodged against him only for the purpose of causing harassment to him and in reaction to the complaint lodged by the petitioner himself, hence this amounts to abuse of criminal process. It is prayed that criminal proceedings against the petitioner may be quashed.

2. Counsel for the State has opposed the petition.
3. Petitioner has placed reliance on the judgment passed in case of ***Laxman Vs. State of M.P.***, reported in ***1999 MPLJ 13***, in which on the basis of fact in that case, it was held that dispute was initially of civil nature and continuation of the criminal proceeding amounted to abuse of process of law. Reliance has also been placed on the judgment of M.P. High Court in case of ***Sharad Sharma Vs. State of M.P. 2000 (1) M.P.W.N. 78***. Petitioner has also placed reliance on the judgment passed by the Supreme Court in case of ***Eicher Tractor Limited and Others Vs. Harhar Singh & Anr.*** reported in ***(2008) 16 SCC 763*** in which relying the judgment passed in ***State of Haryana Vs. Bhajanlal, 1992 SCC (Cri) 426***, it was held that continuation of such proceedings would amount to abuse of process of law.

4. Having perused all the material produced by the petitioner and the contents of charge-sheet, it appears that grounds raised by the petitioner on factual basis are in reality grounds for defence. The contents of the complaint and the statement of witnesses at present are sufficient to connect at prima-facie level that petitioner is connected with commission of offence as charged sheeted against him.
5. Hence in conclusion, it is found that this is not a case where the inherent jurisdiction under Article 226 of Constitution of India can be exercised.
6. For this reason, this petition is dismissed at motion stage itself.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram