

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (Cr.) No. 231 of 2015****Order Reserved on 11.10.2017****Order Delivered on 25.10.2017**

Sheikh Ahmad @ Baba S/o Late Habib Ahmad, Aged About 59 Years
R/o Madarsa Road, Baijnath Para, Police Station Kotwali, Tahsil
Raipur, Civil And Revenue District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through, Its Secretary, Department Of Home, Mantralaya Mahanadi Bhawan, New Raipur, Police Station Rakhi, District Raipur, Chhattisgarh
2. Station House Officer, Police Station Dindyal Upadhyay Nagar, Raipur, District Raipur, Chhattisgarh

---- Respondents

For the Petitioner	: Shri Kishore Bhaduri and Shri Pravesh Sharma, Advocates.
For the Respondent/ State :	Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**CAV ORDER**

1. Heard.
2. This petition has been brought by the petitioner under Article 226 of the Constitution of India with a prayer to quash the criminal proceedings against the petitioner and for grant of other reliefs.
3. It is submitted by counsel for the petitioner that one Lalit Narayan Sharma has lodged First Information Report stating that construction of 80-feet wide road is proposed which passes from the front of the house of the complainant. One – Sevak Ram Pandey claiming himself as Director of Kuber Grih Nirmar Samiti, Raipur has obstructed the construction of road in

front of the house of the complainant on the pretext that the land belongs to Kuber Housing Society. It is also submitted that the said Sevak Ram made illegal demands from the complainant and has taken help of all the hooligans of Tapan Sarkar Giroh (Gang) asking them to construct a wall on the land in front of the house of the complainant. The name of the petitioner has been mentioned in the charge-sheet.

4. It is submitted by counsel for the petitioner that the petitioner has been falsely implicated. He has nothing to do with the incident that has taken place and has no connection with the said Sarkar Gang. The written complaint given by Lalit Narayan Sharma does not mention his name. It is further stated that name of the petitioner is not mentioned in the statement under Section 161 of the Cr.P.C. Similarly, in the statements of other witnesses, Muktheswar Sharma and Satish Sharma, they have not stated anything against the petitioner. Hence, it is prayed that the petitioner is innocent and has been falsely implicated in this case. Reliance has been placed on the judgment of the Supreme Court in the case of **Rajiv Thapar and Others vs. Madan Lal Kapoor** reported in **(2013) 3 SCC 330**.

5. Learned State counsel has opposed the grounds in this petition and the submissions made on behalf of the petitioner. It is submitted by the State counsel that although the name of the petitioner does not find place in the written complaint by the complainant, but some of the witnesses have stated about his involvement in the incident of threatening and extortion that has taken place. Witnesses – Manish Kumar Begani, Raju Pal and Naresh Kumar Dewangan had made clear statement about the involvement of the petitioner in this case, hence, no ground for exercise of jurisdiction by this

Court under Article 226 of the Constitution of India is made out.

6. Heard learned counsel for both the parties and perused the documents on record.

7. Non-mentioning of name of the petitioner in the FIR and by some of the witnesses does not totally absolve the petitioner from the criminal proceedings initiated against him. Some of the witnesses have made clear and categorical statements against the petitioner, which is sufficient for filing charge-sheet for conducting the trial of the case. In such facts and circumstances of the case, no ground is made out for exercising jurisdiction under Article 226 of the Constitution of India. This petition has no merit and it is dismissed.

8. Accordingly, this petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge