

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(Cr) No. 31 of 2017****Order reserved on 06.03.2017****Order delivered on 18.04.2017**

Rajkumar Sawlani, S/o. Shri Tolaram Sawlani, aged about 58 years, Occupation Business, R/o. Plot No. 345, Sai Chanduram Darbar Marg, Jaripatka, Nagpur (Maharashtra).

----Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Department of Home Affairs, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh).
2. The Inspector General of Police, Chhattisgarh at Raipur (Chhattisgarh).
3. The Superintendent of Police, Dantewada, District Dantewada, Civil Lines, Dantewada (Chhattisgarh).
4. The Station House In-charge, Police Station, Bacheli, District Dantewada (Chhattisgarh).
5. The Station House In-charge, Police Station, Bhansi, District Dantewada (Chhattisgarh).
6. Central Bureau of Investigation, through the Director, Plot No. 5-B, CGO Complex, Lodhi Road, New Delhi.

---Respondents

For petitioner : Mr. Sanjay Karmarkar, Advocate and Mr. Suresh Dewani, Advocate.

For respondents 1 to 5/State: -
Mr. Vivek Sharma, Panel Lawyer.

For respondent No.6 : Mr. Anmol Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order [C.A.V.]**

1. Marriage of petitioner's daughter Smt. Kirti Premchandani was solemnized on 11.05.2003 with Satish Premchandani and she died on 05.11.2016. FIR No. 02 of 2017 was registered by Police Station Bhansipur on 23.01.2017 for offence under Sections 498-A and 306 of the Indian Penal Code against Satish Premchandani and others.
2. The petitioner is father of Smt. Kirti Premchandani, who has filed this writ petition seeking the reliefs including that matter be handed over to the Central Bureau of Investigation for investigation, as the petitioner is not satisfied with the investigation carried out by the State Police.
3. Mr. Sanjay Karmarkar, learned counsel appearing for the writ petitioner would submit that, police did not register any FIR on the report of petitioner but only after the filing of this writ petition on 13.01.2017, registered FIR on 23.01.2017 but police has not registered any FIR for offence under Section 302 of the IPC. He would further submit that there are various circumstances in order to indicate that the investigation has not been conducted in a proper manner and there are various suspicious features by which it can be inferred that the investigation is being conducted in different direction in order to suppress the real truth in this case. The police will not conduct impartial and honest investigation for the reason that there is unholy nexus between police and the accused, and therefore, the matter be directed to be investigated by Central Bureau of Investigation and the writ petition be allowed.

4. On the other hand, State counsel would submit that, the State Police has already registered an offence under Sections 498-A and 306 of the IPC against Mr. Satish Premchandani and others and investigation is going on and as such, the writ petition is unnecessary and deserves to be dismissed.

5. I have heard learned counsel for the parties.

6. At the outset, it would be appropriate to notice the cases in which investigation by Central Bureau of Investigation can be directed by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

7. A Constitution Bench of the Supreme Court in the matter of **State of West Bengal and others v. Committee for Protection of Democratic Rights, West Bengal and others**¹ has held that this Court exercising power and jurisdiction under Article 226 of the Constitution of India can issue direction to CBI to investigate a cognizable offence in State without consent of the State Government but such power must be exercised sparingly, cautiously and in exceptional situations and held in paragraph 70 as under:-

“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case

1 (2010) 3 SCC 571

is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”

8. The principle of law laid down in **Committee for Protection of Democratic Rights** case (supra) has been reiterated and followed in the matters of **Pooja Pal v. Union of India and others**² and **Dharam Pal v. State of Haryana and others**³.

9. If the facts of the present case are examined in light of the principles of law laid down by their Lordships of the Supreme Court in above-stated cases it is apparent that on the complaint lodged by the petitioner, criminal case has already been registered against Mr. Satish Premchandani and others for offence under Sections 498-A and 306 of the IPC and investigation is under way by the State Police. In the considered opinion of this Court, this is not a case in terms of principles of law laid down in the matter of **Committee for Protection of Democratic Rights** case (supra) where the extraordinary jurisdiction can be invoked into, as the petitioner has failed to

2 (2016) 3 SCC 135

3 (2016) 4 SCC 160

make out any ground for investigation by Central Bureau of Investigation.

10. The writ petition deserves to be and is accordingly dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge