

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRIMINAL MISC. PETITION NO. 57 OF 2017

Pradeep Chouhan S/o Shri Ramnath Chouhan, aged about 18 years, R/o Village Bhogidih, PS Jaijaipur, Distt. Janjgir Champa (CG).

---- **Petitioner**

VERSUS

State of Chhattisgarh through Officer in charge Rampur, Police Station, Rampur, Civil and Revenue District Korba, Disttt. Korba (CG).

---- **Respondent**

For Petitioner
For Respondent/State

Shri Ashutosh Shukla, Advocate.
Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P.Sam Koshy

Order On Board

16/01/2017

1. By way of this petition the applicant seeks quashment of registration of FIR dated 07.03.2015 and referring of the case of the petitioner to the Juvenile Justice Board, Korba, vide order dated 22.10.2016.
2. Counsel for the petitioner submits that the petitioner has falsely been implicated in the case as he has not played any active role in the assault which were made upon the deceased Kamta Chouhan. He submits that it was a Holi festival and it was only that the present petitioner was present at the place of incident and only on account of said he has been falsely implicated in the case and therefore, both the registration of FIR as well as referring the matter to the Juvenile Justice Board, Korba, deserves to be quashed.

3. However, a plain reading of FIR itself reflects that incident took place on 06.03.2015 on account of playing of loudspeaker at a very high sound and some altercation arose between the deceased Kamta Chouhan and Ramaiya Chouhan. Later on after the said altercation Ramaiy Chouhan, Lakhan Chouhan and the present petitioner is alleged to have entered into the house of the deceased and assaulted the deceased who later on is said to have entered into inside the other room and hanged himself to death. Based upon the said, offence under Sections 452 and 323/34 IPC was registered against the present petitioner. The contents of FIR itself shows the overt act and the role played by the present petitioner in the commission of the offence. Rest of the contentions raised are all matter of evidence which cannot be looked into by this court at this stage.
4. Now, whether there is sufficient evidence and the said evidence is cogent enough to convict the accused is concerned, are all matter of evidence which could not and cannot be looked into by the court High Court at the initial stage where the only consideration to be taken note of is whether prima facie offence is made out or not. All that the High Court has to see at this juncture is whether on the basis of the materials collected during the course of investigation prima facie case is made out or not. Even if there is a strong case of suspicion made out even then the Court would not quash the FIR.
5. So far as the law under Section 482 CrPC is concerned it is by now well settled 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 allegation has 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 allegation as made, prima facie establishes the offence. At this stage neither can the Court embark upon an inquiry, 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.

6. Thus, for the foregoing reasons, this Court is of the opinion that there is no illegality or infirmity committed by the Court below while registration of FIR against the Petitioner and for referring the matter to Juvenile Justice Board, Korba, calling for an interference invoking the extraordinary inherent powers under Section 482 CrPC conferred upon this Court.
7. The petition being devoid of merit thus is liable to be and is accordingly dismissed.

**Sd/-
(P.Sam Koshy)
JUDGE**