

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 138 of 2017**

- Ravindra Gaikwad S/o Raghunath Gaikwad Aged About 58 Years Working As Assistant Manager B.P.C.L., R/o C-1,601 Malwa Heights Malwa Countee Mangalia, Indore (Madhya Pradesh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Sho Of Police Station Durg, District- Durg, Chhattisgarh
2. Sunita Sarkar @ Sunita Rajan Roy Aged About 50 Years Divorcee Of Narain Chandra Sarkar, R/o Lig 412 Kalibadi Padmabhpur Durg, District- Durg, Chhattisgarh

---- Respondent

For Petitioner:

Mr. B.M. Roy, Advocate

For State:

Mr. S.R.J. Jaiswal, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01.02.2017**

1. The present Cr.M.P. under Section 482 of the Cr.P.C. has been filed seeking for relief of quashment of the Criminal case initiated against the present Petitioner at the behest of the Respondent No.2 – complainant.
2. The facts in brief is that Respondent No.2 has lodged an FIR at Police Station Durg which was registered as Crime No. 603/2016 for the offence punishable under Section 376 and 506 IPC. After

investigation the matter has been put to trial before the trial Court and the Criminal Case No. 10960/2016 was registered.

3. Learned Counsel for the Petitioner submits that it is the case where the entire case of the prosecution has been initiated on a false factual matrix that he has been falsely implicated in the instant case. According to the Petitioner it is case where Respondent No.2 in the instant case has obtained loan from the present Petitioner to tune of Rs. 10 lakhs and when the present Petitioner had demanded money back the Respondent instead of paying money back has falsely implicated the present Petitioner. He shows the documents that the amount has infact been paid in the account of Respondent No.2 to establish that there was a financial transaction that took place between the Petitioner and Respondent No. 2 and when there was dispute on the financial aspect it is Respondent No.2 who has falsely implicated the Petitioner in the present case. He further submits that it is the case where the Petitoiner as well as Respondent No.2 both were divorcee. They had come in contact through a website 'jeewansathi.com' and they came close to each other and also planned for their marriage. Before marriage could have finalized some differences occurred between the two particularly on the financial aspect where Respondent No.2 is said to have already taken more than 10 lakhs rupees from the Petitioner and also wanted more money from the Petitioner. When the Petitioner refused to grant more money and also demanded for the refund

of the money, he has been falsely implicated in the present case and thus prayed for quashment of the same.

4. Learned State Counsel however opposes the Petition and submits that the ground whatsoever the Petitioner has raised are all matters of evidence which cannot be ascertained by this Court by only perusal of the record enclosed with the Petition. The State Counsel submits that it is the case where the complaint has been made by Respondent No. 2 against the Petitioner and whether he is innocent or not is the matter of evidence. This Court exercising its powers under Section 482 Cr.P.C. should not decide whether the Petitioner is innocent or not at this stage.
5. Having considered the rival contentions put forth on either side and on perusal of the record what clearly reflects from the document enclosed with the Petition is that there are certain serious allegation by the Respondent No.2 against the Petitioner and whether these allegations are true or not is a matter of evidence which can only be thrashed out by the prosecution at the time of evidence. This Court exercising its powers under Section 482 would not conduct a roving inquiry or a mini trial to reach to the conclusion whether the offence is made out or not, or whether the allegation are false or true.
6. The law so far as quashment of the criminal proceeding is concerned is now well settled. In case if from the nature of the allegation prima facie the commission of the offence is made out

there is very little scope of this Court in exercise of its power under Section 482 to quash the FIR, it is the matter of evidence which cannot be verified by this Court at this juncture. Accordingly this Court does not find any strong case to have been made out for quashing of the entire criminal proceeding or for that matter the FIR which has been registered.

7. The petitioner shall be at liberty to raise all these ground at the appropriate stage before the Trial Court.
8. With the aforesaid observations the Cr.M.P. stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE