

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 151 of 2017**

- Rajnarayan @ Raju Sahu S/o Late Shri Sundarlal Sahu, Aged About 51 Years R/o Nehru Chowk, Baloda Bazar, Police Station And District Baloda Bazar -Bhatapara Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Station City Kotwali, Baloda Bazar, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Applicant : Shri Prakash Tiwari, Advocate.

For Respondent/State : Shri S. Majid Ali, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****08/02/2017**

1. The applicant would call in question the order passed by the trial Magistrate on 23.1.2017 framing charges against him for committing offence under Sections 83 (2) of the Juvenile Justice (Care & Protection of Children) Act, 2015 read with Section 201 of the IPC.
2. It is argued that the applicant has been roped in on the basis of statement of one Mangesh Kumar, a juvenile who was found to run gambling operation illegally by writing 'Satta Patti'. During interrogation of Mangesh Kumar, the Child Welfare Committee came to know that Mangesh is doing operation for the applicant and in course of such gambling operation, the applicant used to give instructions to Mangesh over his Cell Phone bearing number 8120759951.

3. During investigation of the present crime, the police has recorded the applicant's memorandum and seized his Cell Phone bearing number 9575994630 and call details of the said cell phone have also been obtained.
4. It is also argued that the cell phone recovered from the applicant does not belong to him, therefore, coupled with the fact that the applicant has been roped on the strength of statement of Mangesh, there is no evidence against him to hold a full blown trial against him.
5. Although entire charge sheet has not been filed before this Court but the papers submitted would indicate that there is prima facie material against the applicant for holding trial for concerning offences. At the stage of framing charges, the Court is not required to record the finding as to whether the trial would ultimately result in acquittal or conviction, nor the Court is entitled to hold a roving enquiry in the matter.
6. In the matter of **Padal Venkata Rama Reddy alias Ramu Vs. Kovvuri Satyanarayana Reddy and Others** {(2011) 12 SCC 437} the Supreme Court has held in paras 12, 14, 22 and 31 thus:-

12. In a proceeding under Section 482, the High Court will not enter into any finding of facts, particularly, when the matter has been concluded by concurrent finding of facts of the two courts below. Inherent powers under Section 482 include powers to quash FIR, investigation or any criminal proceedings pending before the High Court or any court subordinate to it and are of wide magnitude and ramification. Such powers can be exercised to secure ends of justice, prevent abuse of the process of any court and to make such orders as may be necessary to give effect to any order under this Code, depending upon the facts of a given case. The Court can always take note of any miscarriage of justice and prevent the same by exercising its powers under Section 482 of the Code. These powers are neither limited nor curtailed by any other provisions of the Code. However, such inherent powers are to be exercised sparingly, carefully and with

caution.

14. The inherent power is to be exercised *ex debito justitiae*, to do real and substantial justice, for administration of which alone courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal. (Vide **Dhanalakshmi v. R. Prasanna Kumar** {1990 Supp SCC 686}; **Ganesh Narayan Hegde v. S. Bangarappa** {(1995) 4 SCC 41} and **Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque** {(2005) 1 SCC 122})

22. Thus, the judgment in **Madhavrao Jiwajirao Scindia** {(1988) 1 SCC 692} does not lay down a law of universal application. Even as per the law laid down therein, the Court cannot examine the facts/evidence, etc. in every case to find out as to whether there is sufficient material on the basis of which the case would end in conviction. The ratio of **Madhavrao Jiwajirao Scindia** is applicable in cases where the Court finds that the dispute involved therein is predominantly civil in nature and that the parties should be given a chance to reach a compromise e.g. matrimonial, property and family disputes, etc. etc. The superior courts have been given inherent powers to prevent the abuse of the process of court; where the Court finds that the ends of justice may be met by quashing the proceedings, it may quash the proceedings, as the end of achieving justice is higher than the end of merely following the law. It is not necessary for the Court to hold a full-fledged inquiry or to appreciate the evidence, collected by the investigating agency to find out whether the case would end in conviction or acquittal.

31. We have already pointed out various principles and circumstances under which the High Court can exercise inherent jurisdiction under Section 482. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. The scope of exercise of power under

Section 482 and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in detail in *Bhajan Lal*. The powers possessed by the High Court under Section 482 are very wide and at the same time the power requires great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution.”

7. Without commenting on the merits of the matter which will be seen by the trial Court, this Court is not inclined to entertain this Criminal Revision because considering the scope of interference in the criminal revision against the order framing charges, this Court does not find the present one to be a fit enough for interference.
8. Accordingly, the Criminal Revision is dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve