

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No354of 2017**

- Hitesh Bhai Patel, S/o Late G. B. Patel, aged about 50 years, R/o E-9, Malaviya Nagar, G.E. Road, Durg, PS Mohan Nagar, Durg, Tahsil & District Durg (C.G.).

---- Petitioner**Versus**

- N. K. Khandelwal, S/o Gajanan Khandelwal, aged about 48 years, R/o Azad Market, Pragati Nagar, Risali Bhilai, Tahsil & District Durg (C.G.)

---- Respondent

For the Petitioner	: Shri Mateen Siddiqui, Advocate
For Respondent/ State	: Shri P. R. Patankar Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.09.2017**

(1) Heard.

(2) Petition under Section 482 of Cr.P.C. has been brought with a prayer to quash the criminal proceedings pending against the petitioner. Respondent had filed a complaint (Annexure P-6) against the petitioner that on 04.04.2003, he was threatened by petitioner and another co-accused person to keep himself away from participating in tender process. Accused persons came again on 03.04.2003 and threatened him again by saying that the date of tender has been extended, hence, he should keep himself away from the tender process. Later on, on the same date at about 6 pm when the respondent came out of his Office, petitioner and co-accused persons stopped him near the gate of the Plant and used abusing words causing

annoyance to him.

(3) The trial Court has registered the complaint and taking cognizance against the petitioner under Section 341, 294 of IPC by order dated 23.11.2004. A revision was preferred against this order, which has also been dismissed by the Revisional Court.

(3) It is submitted by learned counsel for the petitioner, that a written complaint was made by respondent to the Senior Superintendent of Police District- Durg on 04.04.2003, in which it was stated that two persons namely Venus Simon and Dharmendra Yadav came to his Office on 02.04.2003 telling him to keep away from tender process and threatened with dire consequences, the same persons came to his Office on 03.04.2003 and when he was come out from his Office in the vehicle, on the same day he was again stopped and abused by the same persons along with 10 to 12 other persons. Respondent tried to lodge the report in the concerned Police Station but the report could not be lodged by the concerned police station and he was advised to approach the Court.

(4) It is submitted by counsel for the petitioner that the complaint given by respondent was enquired into and a report was submitted to the Senior Superintendent of Police vide Annexure (P-8) that respondent had made a false complaint against the persons mentioned in his complaint dated 04.04.2003 and a similar report was also submitted before the Court of Judicial Magistrate First Class, Durg vide Annexure (P-9) in connection with the enquiry made by Orders of the Court, this report has been mentioned in the order of the trial Court dated 19.05.2014.

(5) It is submitted by counsel for the petitioner that respondent and

petitioner are business rivals; hence, only for the purpose of harassment respondent is habitual in making false complaint against him. Therefore, it is prayed that the complaint filed by the respondent is without any substance which may be quashed.

(6) Counsel for respondent submits that order taking cognizance passed by the trial Court is based on the statements of witnesses, which were recorded under Section 200 and 203 of Code of Criminal Procedure in which clear allegation made against the petitioner about his involvement in the crime in question. Hence, whatever ground is raised in the petition and submission made by counsel for the petitioner is the ground of defence which can be raised by the petitioner during trial of the case, therefore, the petitioner has no case.

(7) Heard counsel for both the parties and perused all the documents on records.

(8) Petitioner has produced the copy of the complaint made by the respondent to the Senior Superintendent of Police, Durg which has been obtained from Police-Station- Bhatti Bhilai, similarly a certified copy of enquiry report of Senior Superintendent of Police, Durg Annexure P-8 is obtained from Police Station-Bhatti Bhilai. The report submitted before the Court of Judicial Magistrate First Class, Durg is also on record. There is a marked difference between the complaint made to the Senior Superintendent of Police, Durg and the complaint filed before the Court of Judicial Magistrate First Class. In the complaint made to the Senior Superintendent of Police, Durg it was alleged that the persons who came to

commit alleged offences on 02.04.2000 and 03.04.2003, came at the behest of the petitioner and the petitioner was not present in the scene of occurrence, *whereas* in the complaint filed before the Court petitioner has been brought on the scene of crime and alleged that he was present on all occasions when threatening was given to the respondent or respondent was subjected to wrongful restraint. Under these circumstances and on the basis of undenied facts and documents, it is clearly made out that if the complaint case against the petitioner is allowed to continue then petitioner is going to succeed in the case by convincing the Court to disbelieve the respondent. The respondent has improved his statement suitably and changed the version of his complaint while traveling from Police to the Court. Hence, in view of these observations it appears that the continuation of criminal proceeding against the petitioner before the trial Court is definitely going to amount to abuse of process of law. Hence, this petition is allowed. The complaint case pending against the petitioner in criminal Case No1925/17 before the Court of Judicial Magistrate First Class, Durg is hereby quashed.

(9) Accordingly, this petition is disposed off at the motion stage itself.

Sd/-

(Rajendra Chandra Singh Samant)
Judge