

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 498 of 2016**

- Santosh Pandey S/o Janardan Pandey Aged About 45 Years R/o Titurdih, Ward No. 22, Police Station Mohan Nagar, Durg, District Durg Chhattisgarh

---- Applicant**Versus**

1. State Of Chhattisgarh Through - Superintendent Of Police, Durg, District Durg Chhattisgarh
2. Pulak Bhattacharya Assistant Transport Officer, Durg, District Durg Chhattisgarh
3. Jwala Prasad Agrawal S/o Gopal Prasad Agrawal R/o Gaya Nagar, Police Station City Kotwali, Durg, District Durg Chhattisgarh

---- Non-applicants

For Applicant
For State

Mr. T.K. Jha, Advocate
Mr. Ashish Shukla, Government Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****05.01.2017**

1. The present Petition under Section 482 of the Cr.P.C. has been filed seeking for quashment of F.I.R. which has been lodged in Crime No. 306/2016 at Police Station City Kotwali, Durg.
2. The fact in brief is that one Jwala Prasad Agrawal, an R.T.I. Activist is said to have filed a written complaint to the Collector as well as the Superintendent of Police in respect of an alleged incident that took place on 19.11.2015. The place of incident was from the Central School, Durg to the Office of the R.T.O., Durg. It is alleged that the

present Applicant along with a large group of Auto Riksha drivers were agitating with the school going children in the Auto Riksha and had blocked the entire road and has also forced the children to stay inside Auto Riksha for a considerable period of time without they being provided water or other basic requirements. Based on the said complaint an F.I.R. was lodged by the Police authorities on 10.04.2016 as Crime No. 306/2016 for the offence under Section 363/34 of the IPC and Section 23 of the Juvenile Justice Act.

3. Learned Counsel for the Applicant assailing the registration of the said F.I.R. submits that it is the case where though there is allegation of kidnapping of the school going children and forcing them to confinement for a considerable period of time but there is not even a single complaint lodged by any of the parents whose children were alleged to have been confined or allegedly kidnapped by the present Applicant or his colleagues. It is also submitted by the Counsel for the Applicant that in fact the present Applicant had tried to clear the path for the children to reach school and he had also tried to make arrangements by calling upon the parents of the students to make alternative arrangements for taking them to school and as such he has facilitated the parents in making alternative arrangement for their children to reach school. He further submits that the complaint has been made with malafide intention to falsely implicate the petitioner in the present case as he is associated with a political group and therefore with political vendetta present action has been initiated.
4. Learned State Counsel however opposing the Petition submits that this Petition has been filed at a premature stage where the

investigation in the case itself is going on. At this juncture it would not be proper to quash the F.I.R at the preliminary stage itself. He further submits that since this Court has granted interim protection on 19.08.2016 against further proceeding in the F.I.R., the entire investigation has been stalled. He submits that so far as the contention that there is no complaint by any of the parents, is the fact which is yet to be gathered by the police authorities during the course of investigation and further recording of the statement of the other witnesses also. Therefore the Police authorities at this juncture is not in position to say whether the allegation levelled are correct or not. It can only be found out after the entire investigation is complete. Thus, prayed for rejection of the present Cr.M.P.

5. Having considered the submissions put forth on either side and on perusal of documents which have been produced by the State Counsel during the course of hearing a specific query was put to the State Counsel whether from 10.04.2016 to 19.08.2016 i.e. from the date of lodging of F.I.R till the interim order was passed by this Court is there any statement of even one of the parents recorded? The State Counsel answers in negative. Further the State Counsel has not been able to show even a single name of a student who has allegedly been confined or kidnapped by the present Applicant. In the given facts and circumstances of the case this Court is of the opinion that ends of justice would meet if the present Petition is disposed off with a direction to the Respondent State to conduct further investigation in a fair and proper manner.
6. Further looking to the peculiar facts of the case and taking note of

the fact that there is no details of any children who were allegedly kidnapped and put in confinement nor there being any complaint by the parents of any such children, this Court is of the opinion that the present Applicant deserves to be given interim protection to the extent that no coercive step shall be taken against the present Applicant till filing of the charge sheet.

7. With the aforesaid observation the present Petition is partly allowed and disposed off.
8. Needless to mention, it is expected that the Petitioner shall also render all cooperation to the Police authorities for proper investigation. As and when he is called he should definitely make himself available for answering the queries of the Police authorities to which the Counsel for the Petitioner undertakes to provide all necessary cooperation.

Sd/-

(P. Sam Koshy)
JUDGE