

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment reserved on 02-11-2016****Judgment delivered on 02-02-2017****CRMP No. 1194 of 2016**

1. Surjeet Kumar Jain S/o Shri Satish Kumar Jain, Aged About 26 Years, R/o Laxmi Ward Devri, District Sagar, Madhya Pradesh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The S.H.O. Police Station Sarkanda, District Bilaspur, Chhattisgarh.

---- Respondent

For Petitioner

Shri Awadh Tripathi, Advocate

For Respondent/State

Shri Arun Sao, Dy. Adv. General

Hon'ble Shri Justice Prashant Kumar Mishra**C A V Order**

1. This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') is for quashing the charges framed against the applicant for committing offence under Sections 354A(1)(iv) of the Indian Penal Code (for short 'the IPC') and Sections 66C, 66D and 67 of the Information Technology Act, 2000 (for short 'the IT Act').

2. The First Information Report (for short 'the FIR') lodged by one Deepam Jain with the Sarkanda Police is to the effect that on 25.10.2013 his e-mail ID i.e. deepam.steigen@gmail.com was hacked, the password changed and obscene messages were sent to his senior officers using indecent and obscene language while showing photograph of his sister Bharti Jain. The obscene pictures of his sister were also sent to his seniors, colleagues and friends, therefore, he changed the e-mail ID and, thereafter, lodged the complaint with the Police for making necessary investigation. The cyber crime wing of the concerned police investigated the matter and enquired from Google about the place, address and the person who has committed the offence. The police gathered the evidence that it was the petitioner who has committed mischief, therefore, charge for the above mentioned offences has been filed against the petitioner.
3. It is argued that no, *prima facie*, case is made out against the applicant, therefore, the charges deserve to be quashed. It is also argued that the petitioner's role is not mentioned in the charge sheet except the fact that particular e-mail was sent from IIT, Kharagpur (West Bengal) but there is nothing with regard to petitioner's involvement.

4. Perusal of the papers would indicate that during investigation, it has been found that the subject objectionable e-mail was sent from the petitioner's login address, therefore, there is, *prima facie*, material available in the charge sheet for framing charges against the petitioner.
5. The trial Court as well as the Revisional Court have rightly relied upon the law laid down by the Supreme Court in **Soma Chakravarty v. State through CBI¹, State of A.P. v. Golconda Linga Swamy and Another² and Onkar Nath Mishra and Others v. State (NCT of Delhi) and Another³**, to conclude that at the stage of framing of charges, the Court is not required to examine as to whether the material available in the charge sheet would ultimately result in acquittal or conviction and further that if *prima facie* case is made out the same is sufficient for framing the charges.
6. In **Padal Venkata Rama Reddy alias Ramu v. Kovvuri Satyanarayana Reddy and others⁴**, it has been held that quashing of criminal proceedings under Article 226 of the Constitution or under Section 482 Cr.P.C. is permissible only if the complaint does not disclose any offence or the

1 (2007) 5 SCC 403

2 (2004) 6 SCC 522

3 (2008) 2 SCC 561

4 (2011) 12 SCC 437

same is frivolous, vexatious or oppressive. It is held that the High Court cannot get into meticulous analysis of facts as to likelihood of acquittal or conviction.

7. In **C.P. Subhash v. Inspector of Police, Chennai and others**⁵, it has been held that the High Court in ordinary course should not invoke its powers to quash such proceedings except in rare and compelling circumstances.
8. In view of the settled legal position in respect of powers and jurisdiction of the High Court by quashing charges under Section 482 of the Cr.P.C. and having examined the present matter on the anvil of the settled legal position, this Court does not find any substance in the present matter.
9. As an upshot, the Cr.M.P., *sans stratum*, is liable to be and is hereby dismissed. Sd/-

Judge
Prashant Kumar Mishra

Gowri

⁵ (2013) 11 SCC 559