

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment reserved on: 29/08/2017****Judgment delivered on:30/10/2017****CRMP No. 826 of 2016**

- Tarika Tarangini Lakra W/o Shri Nirmal Lakra Aged About 36 Years R/o Village Unjipathara, P.S. - Punjipathra, Tehsil Tamnaar, District Raigarh Chhattisgarh.

---- Petitioner**Versus**

- Dinesh Kumar Bhargava S/o Late Shri P.N. Bhargava Aged About 42 Years R/o Urja Nagar, Village Tihilirampur, P.S. Tamnaar, Tehsil Tamnaar, District Raigarh Chhattisgarh.

---- Respondent

For Petitioner	:	Smt, Shashi Bareth and Shri Harsh Wardhan, Advocates.
For Respondent	:	Shri Ashish Shrivastava and Shri Soumya Rai, Advocates.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**CAV Order****30/10/2017**

Heard.

1. This petition is brought under Section 482 of Cr.P.C. with a prayer to quash the order dated 12.5.2016 passed by the learned JMFC, Gharghora taking cognizance and registering offence against the petitioner.
2. A complaint has been moved by respondent against the petitioner, that petitioner has filed WPCR No.232 of 2015 with a prayer for issuance of direction against the respondent. It was alleged that respondent had threatened the petitioner on 01.06.2013 in Tamnar, whereas respondent

was in Delhi on the date mentioned. A copy of report dated 30.10.2015 by S.P. Raigarh was attached with the writ petition and on making inquiry it was found, that no such report was submitted by S.P.-Raigarh and no complaint was made by the petitioner on 4.6.2013 at the police-station Tamnar. Thus, the report was forged. Respondent made a written complaint in Police Station-Tamnar on 17.3.2016, but no action was taken on the same. The trial Court after recording statements of witnesses of complainant has passed the impugned order.

3. It is submitted by counsel for petitioner that the complaint filed is a counter blast to the various complaints made by the petitioner. As submitted, the land belonging to petitioner's family was acquired by the officials of Jindal Group by using pressure tactics and coercive methods. Petitioner challenged the acquisition proceedings in WPC No.12/2011 which is pending before this Court. In the meanwhile, brother of petitioner and his two friends died in an accident in suspicious circumstances. Further, petitioner was subjected to abduction and gang rape. A complaint dated 4.6.2013 was given in the P.S.-Tamnar, alleging that respondent Dinesh Kumar Bhargava was the perpetrator of this crime, no action was taken on account of his influence. Petitioner is being pressurized to yield her land to the Jindal Group. Petitioner approached this Court by filing WPCR 232 OF 2015 which was disposed of by order dated 28.1.2016. It is submitted that although the learned JMFC called for the inquiry report but the order taking cognizance has been passed without waiting for the submission of inquiry report. Hence, inquiry report of the police was vital for passing any order taking cognizance in this case, therefore, it is prayed that the criminal proceedings pending against her before the trial Court be quashed.

4. It is submitted by counsel for respondent that in WPCR No.232 of 2015, parties being Smt. XYZ wife of Smt. PQR Vs. State of C.G. and others, an order has been passed by this Court on 28.1.2016 observing that on complaint made by petitioner dated 4.6.2013 inquiry has been made and report has been submitted by the concerned police-station and in the report it was specifically mentioned that no such report dated 4.6.2013 was submitted in P.S.-Tamnar. It was also observed that respondent Mr. Bhargava Manager, JSPL, alleged perpetrator of crime, was not in Tamnar on 1.6.2013 i.e. alleged date of incident, and there is proof that he was in Delhi on that date. Hence, it was held that the allegations on this point need no adjudication. Rest of the order has dealt with the transfer of petitioner which is not relevant for this case. It is also submitted that the petitioner had the option of moving the revisional Court challenging the order taking cognizance passed by the JMFC, Gharghora instead she has directly come to this Court invoking extraordinary jurisdiction under Section 482 of Cr.P.C. which is not maintainable.
5. Heard both the parties and perused all the document on record and the record of the complaint case No.363 of 2016.
6. Contention of the petitioner that without waiting for the submission of inquiry report the trial Court should not have passed the order taking cognizance is not essential , the provision under Section 202 of Cr.P.C. provides that Magistrate may inquire into the case himself or direct an investigation to be made by a police officer. Section 190 of Cr.P.C. provides that after considering the statements on oath of the complainant and of the witnesses and the result of inquiry or investigation, if any, under Section 202, the Magistrate may pass order taking cognizance.

7. Thus, according to the provisions under Cr.P.C., calling of inquiry report is not mandatory. After passing of the order calling for inquiry report from concerned Police-station, the trial Court proceeded to record statements of complainant and his witnesses and on completion of recording of statements, the impugned order was passed. In this order the observations made by this Court in WPCR No.232/2015 have been taken into consideration and the offences have been registered against the petitioner.
8. A Court calling inquiry report from police is usually not bound with the report submitted by the police and the Court may agree or disagree with that report. In this particular case, the report was submitted before this Court on the basis of which the observations were made in the order dated 28.1.2016 passed by this Court in WPCR No.232/2015 and the same have been taken into consideration by the trial Court while passing the order impugned. As per provision of Section 190 of CrPC, the Magistrate is capable to take cognizance of an offence on the basis of statements of complainant and witnesses alone and in this case also, the trial Court after recording the statements of complainant & the witnesses and after considering the documents brought on record, passed the order impugned and thereby has not committed any illegality. However, if the petitioner wants proper adjudication in the matter, he has the option to move before the revisional Court.
9. For the foregoing reasons, this petition does not appear to be maintainable and it is dismissed accordingly.

Sd/-
(**Rajendra Chandra Singh Samant**)
JUDGE