

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on 22/03/2018.****Order Delivered on 06 /04/2018.****Writ Petition (Cr.) No. 140 of 2018**

1. Basant Sharma S/o Late Shri D.L. Sharma, Aged About 51 Years R/o Jabdapara, Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. Union Of India, District : New Delhi, Delhi
2. Secretary (Personnel) (Dopt) Department Of Personnel And Training, North Block, New Delhi - 110001., District : New Delhi, Delhi
3. Enforcement Directorate Government Of India, Through Assistant Director, Room No. 302-303, A - B Block Central Excise Building, New Dhamtari Road, Tikrapara, Raipur, Chhattisgarh 492001, District : Raipur, Chhattisgarh
4. Central Bureau Of Investigation (Cbi), Bhilai, Chhattisgarh, Through The Dyp. S.P. Bhilai, District Durg Chhattisgarh., District : Durg, Chhattisgarh
5. State Of Chhattigarh, Through Chief Secretary, Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
6. The Secretary, Dept. Of Home Mahanadi Bhavan, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
7. Director General Of Police, Police Head Quarters, Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

8. Adl. Director General Of Police (Acb) Police Head Quarters, Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
9. Inspector General, Bilaspur Range, I.G. Office, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
10. Superintendent Of Police, S.P. Office, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
11. Superintendent Of Police (Acb), Acb Office, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
12. Station House Officer, P.S. Sarkanda, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
13. Manishankar Pandey S/o Late Shri Ramkhilavan Pandey, Aged About 45 Years R/o Maharana Pratap Nagar, Tifra, Ps Sirgitti, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
14. Shri Anil Tiwari, Presently Posted As Dy. S.P. Traffice, Bilaspur, Through Director General Of Police, Phq Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
15. Shri S.N. Shukla Presently Posted As S.H.O. Bilha, Bilaspur, Through Director General Of Police, Phq Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
16. Shri Mukesh Gupta, Presently Posted As A.D.G., (Acb), Through D.G.P. Police Head Quarters, Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
17. Shri Viveka Nand Sinha (I.G.) Through D.G.P. Police Head Quarters, Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
18. Shri Mayank Shrivastava, Presently Posted As Sp Korba, Through Director General Of Police, Phq Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

19. Shri Salabh Sinha, Presently Posted As C.S.P. Bilaspur, Through Director General Of Police, Phq Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
20. Shri Niraj Chandrakar, Presently Posted As Adl. S.P Bilaspur, Through Director General Of Police, Phq. Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
21. Shri Rajnesh Singh, Posted As S.P. (Acb) Bilaspur, Through Director General Of Police, Phq, Behind Raj Bhavan, Ge Road, Raipur Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondents

For the Petitioner	:	Shri Devershi Thakur, Advocate.
For the Respondent/State	:	Shri A. S. Kachhuwaha, Addl. A. G. for the State. Shri Sunny Agrawal with Shri Pawan Kesarvani, on behal of Shri Kishore Bhaduri, Advocates for C.B.I. Ms. Jyoti Singh, Advocate for A.S. G. Dr. Saurabh Kumar Pandey, Advocate for respondent No.3.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV ORDER

1. Heard on Admission.
2. This petition has been brought for issuance of appropriate writ and direction for investigating on the complaint made by the petitioner, which is targeted against respondent No.16.

3. It is submitted that respondent No.13-(Manishankar Pandey) used to claim himself as the agent/broker of the Government departments including investigating agencies as well as judiciary. Petitioner was harassed by respondent No.13 on the ground that his name is reflected in the list of ACB of the persons whose premises are to be raided and also demanded extortion money from the petitioner. The petitioner by means of sting operation recorded the conversation with respondent No. 3 in which he has made various claims about being close to the higher officials, politicians and also members of judiciary. According to statement, which is recorded by the petitioner, respondent No.3 made a submission that extortion money was to be given to respondent No.16 and, thereafter, the money will be forwarded to the higher authority. It is submitted that although the complaint was pending in police station since April,2016, it was registered on 22.03.2017 by respondent No.14. It is the statement by the petitioner that respondent No. 14 was taken to task for registering the FIR in this case.
4. It is also submitted that respondent No. 13 has presented anti dated complaint in PS- Bilaspur, whereas, respondent No.13 has made the statement on affidavit confirming about the concerned conversation. Reliance has been placed on the judgments of **Samaj Parivartan Samudaya Versus State of Karnataka**, reported in **Laws (SC) 2012 5 32**, **Subrata Chatteraj Versus Union Of India**, reported in **Laws (SC) 2014 5 32**, **Pooja Pal Versus Union of India and Ors**, reported in **Laws (SC) 2016 1 63**, hence, it is prayed that the case may be admitted for final hearing.
5. Learned counsel for the respondent No. 1 opposes the application and submits that this petition has been brought at very preliminary stage. The alleged Compact Disk (CD) has been sent for forensic examination at

Chandigarh and the report is awaited. Petitioner is a habitual complainant. It is assured by the counsel for the State that as soon as report on CD is received, the investigation shall be proceeded with. Reliance has been placed on the judgment of State of **West Bengal and Ors Versus Committee for Protection of Democratic Rights, West Bengal and Ors**, reported in **2010 3 SCC 571**.

6. Learned counsel for respondent No.4 - (C.B.I) submits that if this Court orders respondent No. 4 to conduct an inquiry in this case, the same shall be complied with.
7. In reply, learned counsel for the petitioner submits that although the complaint was filed in April,2016, but the same has been kept pending for such a long time and there is no explanation for such delay. This fact itself shows that the investigation in the complaint is being stalled for the reason that influential persons are involved in this case.
8. Heard both the parties and perused the record.
9. Considered. As the allegations made by the petitioner is based on a video clipping / recording containing conversation allegedly taken place between the petitioner and respondent No.13. Respondent No. 13 has so far not made any such admission as claimed by the petitioner. Hence determination of the authenticity of CD is the very first requirement in this case. When the concerned forensic lab verifies and confirms the authenticity of the video recording, the investigation in this case may proceed further, as assured by the counsel for the State, that forensic report is awaited and as soon as the report is received the investigation shall be conducted accordingly. Hence, for these reasons I am of the view that this petition has been brought pre-maturely, though there is some delay on the part of the investigation agency but looking to the steps taken

by the investigating agency, by sending the CD for forensic examination, it cannot be held at this stage that investigating agency has no intention to investigate into the case, hence, for these reasons, this petition is not fit to be admitted.

10. Accordingly, this petition is dismissed.

Sd /-

(Rajendra Chandra Singh Samant)

Judge