

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 175 of 2018

Basant Sharma, S/o Late Dashrath Lal Sharma, Chairman of D.L.S. College, Aged About 50 Years, Parth Shishan Samitte, Ashok Nagar Sarkanda Bilaspur, P.S. Sarkanda, Tahsil And District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Department of Home (Police), Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Director General Of Police, Head Quarter Raipur, District Raipur Chhattisgarh.
3. Inspector General Of Police, Rang Bilaspur, District Bilaspur Chhattisgarh.
4. Superintendent Of Police, District Bilaspur Chhattisgarh.
5. Station House Officer, Sarkanda, Bilaspur, District Bilaspur Chhattisgarh.
6. Station House Officer Civil Line, Bilaspur, District Bilaspur Chhattisgarh.
7. Dr. Indu Anant, W/o Vinod Anant, Aged About 55 Years Presently Working as Registrar of Bilaspur University, R/o Mata Mandir Chowk, Jarhabhatha, P.S. Civil Line, Tahsil And District Bilaspur Chhattisgarh.

---- Respondents

For petitioner –Shri Prashant Jayaswal, Sr. Advocate with Shri Avinash K. Mishra and Shri Ashutosh Shukla, Advocates.
For State- Shri Adhiraj Surana, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/04/2018

Heard.

1. In the instant petition following reliefs has been prayed for:-
 - (i) This Hon'ble Court may kindly be pleased to issue order/orders, writ/writs and direction/directions that the impugned FIR may be quashed.
 - (ii) This Hon'ble Court may kindly be direct the Respondent No.3 to 6 not to take the any corrosive action against the petitioner in the

light & essence of the impugned FIR's for complaint made in future in regard to the subject matter.

(iii) That the Hon'ble court may kindly be quash the identical FIR's annexure P2 to R/5.

(iv) That the any action/recordation which would be appropriate may be taken or passed against the Resp. no 7 for their will fully using the legal system for their personal revenge, misconduct and criminal wrong and directed the respondent to initiated criminal inquiry against the Resp. no.7.

(v) Any other relief/relief's which this Hon'ble Court may think fit and proper in the facts and circumstances of the case, with cost of the petition, may also please be granted to the petitioner.

2. Learned counsel for the petitioner would submit that initially when complaint was received it was investigated by the CSP. It is stated that the allegation were that the petitioner, who is Chairman of a college threatened and pressurized and also caused wrongful confinement to the members of the National Assessment and Accreditation Council Bangalore to give a report in favour of their college. It was further complained that when they were wrongfully confined to give such report in favour of the college as also when they were lodged in hotel they were threatened, abused and pressure was also exerted. It is stated the aforesaid complaints were made by the Registrar of Bilaspur University.

3. Shri Prashant Jayaswal, Sr. Advocate assisted by Shri Avinash K. Mishra and Shri Ashutosh Shukla, Advocates would further submit that initially when report was made by Indu Anant respondent No.7 detail investigation was carried out and even CCTV footage of the hotel and the premises were examined. He further submits that report which is filed as Annexure P-10 dated 14/10/2017 wherein statement of Vice Chancellor of

the University was also recorded, it was found that all the allegations so made are false and after investigation non-cognizable offence was reported. Subsequently, other higher officer of the police again started investigation and FIR was registered. He further submits that once in one investigation offence was not found to have been committed then in such case second FIR on the same incident could not have been proceeded as it would suffer with logic of the sameness. Reliance was placed in case of **Surender Kaushik & Ors. Vs. State of Uttar Pradesh & Ors.** reported in **AIR 2013 SC 3614**. He further submits that only course which was open to the complainant/victim was to file a complaint if any before competent court.

4. Learned State counsel was directed to call for the case diary on the earlier date. One of the case diary is produced for inspection before this court. Learned State counsel would submit that the FIR which are on the preliminary stage same cannot be quashed and when cognizable offence has been reported and the higher official of the police were not satisfied with the report investigation can always be carried.

5. Perused the case diary as also the document which is heavily relied by the petitioner i.e. Annexure P-10 dated 14/10/2017. Sum and substance of the case would show that National Assessment and Accreditation team visited college of the petitioner named DLS PG College at Sarkanda, Bilaspur so as to examine whether to continue accreditation and affiliation to the college. Further four persons as would show that Professor Smriti Kumar Sarkar being Chairman alongwith Professor S.C. Arya Member Coordinator, Professor C. Madhumati member and Dr. I. Bhanu Murthy Member visited the College in between 1st and 2nd June 2017.

6. Allegation is that the members of council were pressurized and

compelled and were also kept in confinement by the College Management to create pressure to give a report in favour of the college. Allegation contains that team was pressurized to sign the papers to the choice of their petitioner's College. Report dated 14/10/2017 which is signed by the CSP Kotwali Bilaspur shows that statement of Indu Anant Registrar of Bilaspur University and C.D. Sharma Vice Chancellor of Bilaspur University was recorded and letters of the members of the Accreditation team were considered. Police officer in its report found initially that no offence is made out and it was addressed to the Superintendent of Police. Subsequently, as appears that report was not accepted by the S.P. Bilaspur to whom it was addressed and again investigation was ordered for.

7. Case diary contains statement of Smriti Kumar Sarkar Chairman of the Accreditation Council and one letter of Madhumati. Letter of Professor C. Madhumati dated 15th June, 2017 would show that they were gheroad and abused by teaching and non-teaching staff and were insulted, humiliated and ridiculed by the members and modesty was at stake. Threat was extended with dire consequences. Further it shows that they were harassed and tortured. It further recorded that at 12.20 am (midnight of 2nd June) when they reached hotel and were in their room frequent door bell rang and banging on the door was made and saw group of persons from the peephole of the door and she was terrified.

8. Likewise, statement of Smriti Kumar Sarkar who was Chairman it recorded that on 1st and 2nd June, 2017 they visited the College and after inspection they prepared report. The report was to be signed by Principal but the Principal did not come uptill 4 pm in the hotel and thereafter he came in hotel after 4. Thereafter at 5.30 pm he saw report and refused to accept the recommendation on the ground that unless and until he

discusses the issue with his higher ups he will not sign the paper. Thereafter, on the instruction of the Accreditation Council Bangalore, Chairman was instructed to leave the report with the College itself and when they reached to the College they were gheroad and were under the confinement and they were pressurized to sign the papers according to their wish which suits the college. Further statement shows that they came back to the hotel while they were in room bell was banged many a times as such they were scared for the time.

9. These statements in case diary if are examined in the context of Annexure P-10 letter dated 14/10/2017 the report of police, it do not reflect that statement of Madhumati and Smriti Kumar Sarkar was recorded by the police officer who were the actual victims. Instead statement of Registrar and Vice Chancellor were recorded who were not at all a victim in the case. As such when report was sent to the S.P. Bilaspur in all probability in such back ground same was not accepted. In the result, after going through the case diary documents and the documents and following the principles laid down in case of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. in SLP Criminal 9549 of 2016** I do not find it proper to exercise the inherent power of the High Court as facts do not show that there has been abuse of process of any proceeding. Considering the nature and gravity of the offence, this court is not inclined to exercise its power to quash first information report so as to nip the proceeding in the bud and to suffocate investigation which is being carried out by the State.

10. Accordingly, the petition has no merit and it is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE

