

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 146 of 2019**

- Smt. Poonam Agrawal W/o Shri Nikhil Kumar Singh Aged About 31 Years R/o B-5 Priyadarshini Nagar, Police Station Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Home Affairs (Police), Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Director General Of Police Of Chhattisgarh Raipur Chhattisgarh.
3. Inspector General Of Police Raipur Range, District Raipur,
4. Superintendent Of Police Raipur, District Raipur, Chhattisgarh.
5. Station House Officer Police Station New Rajendra Nagar, Raipur, District Raipur Chhattisgarh
6. Prafull Thakur Presently Posted As Additional Superintendent Of Police City, Raipur, Chhattisgarh
7. Smt. Deepmala Kashyap Additional Superintendent Of Police, Presently Posted At Police Headquarter Raipur, District Raipur, Chhattisgarh
8. Abhishek Maheshwari Deputy Superintendent Of Police (Crime Branch), Raipur, District Raipur Chhattisgarh
9. Krishna Kumar Jangde Sub Inspector, Police Station New Rajendra Nagar, Raipur, District Raipur Chhattisgarh
10. Shrawan Kumar Mishra Assistant Sub Inspector, Police Station New Rajendra Nagar, Raipur, District Raipur Chhattisgarh
11. Sarfraj Chisti Head Constable Batch No. 1603, Presently Posted At Police Station Civil Lines, Raipur, District Raipur, Chhattisgarh
12. Sunil Silwal Constable Batch No. 730, Presently Posted At Police Station Civil Lines, Raipur, District Raipur Chhattisgarh
13. Kamal Dhangar, Constable Batch No. 2544, Presently Posted At Police Station Civil Lines, Raipur, District Raipur, Chhattisgarh

14. Shiv Kant Bhagel Constable Batch No. 445, Police Station New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh
15. Smt. Urmila Dhruw Female Constable Batch No. 2602, Police Station New Rajendra Nagar, Raipur, District Raipur Chhattisgarh
16. Palash Tiwari S/o Shri Santosh Tiwari Aged About 29 Years R/o Om Society, Sundar Nagar, Police Station D.D. Nagar, Raipur, District Raipur, Chhattisgarh
17. Durgesh Bansare S/o Shri Munna Bansare Aged About 23 Years R/o Indratma Nagar Puraina, Police Station New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri D.K. Wankhede, Advocate with Shri Mayank Kumar, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, Dy. AG

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07/03/2019

1. Heard.
2. The present petition is to quash the criminal case for which the charge-sheet has been filed under Sections 489 A, 489 C, 489 D and 489 E read with Section 34 IPC.
3. Learned counsel for the petitioner would submit that according to the police on 2nd of December, 2018 at 6 am in the morning the police started with the raid and it is the case of the police that they conducted the raid in the Flat at Rajat Complex of the petitioner and has recovered fake currency notes. He further submits that neither the currency notes were recovered from the petitioner nor

any kind of raid was ever conducted, which would be evident from the final report as it contradicts the time and place as the seizure has been shown at 7:10 AM and the incident has been stated to be taken place at 9 AM, therefore, serious contradiction appears. He referred to the photographs, C.D. and Pen Drive along with the certificate of forensic expert, wherein it is stated that the C.D. & pen drive are original. He further submits that the C.D. & pen drive do not belong to the petitioner and the photographs and time would show that the raid was not conducted in the morning as it shows a different timing. He placed his reliance in the case of ***Shafhi Mohammad Versus State of Himachal Pradesh {(2018) 2 SCC 801}*** and ***Rajiv Thapar and others Vs. Madan Lal Kapoor {(2013) 3 SCC 330}*** and submits that in case C.C. TV footage which is not in control of the petitioner are produced, then it will have direct implication and can be looked into. He further submits that the entire investigation, therefore, is fake and the recovery of the fake currency notes too is fake.

4. To appreciate the argument of the petitioner at present it is difficult to connect the photographs so produced with the incident. The photographs only show presence of certain persons. Who they are, what were they doing is not clear. It is a matter of trial and the petitioner shall be at liberty to confront all these documents during the course of trial. Simply by looking the photographs no story can be attributed or developed in favour of the petitioner unless & until the witnesses say so and affirm the fact that the photographs and the raid are of the same time. There has to be live link between the production of the

photographs and the incident of raid. Looking at the photographs which are filed before the Court, it cannot be inferred whether it was pertaining to the raid, prior to the incident or at the time of incident, nothing can be assumed. The petitioner shall be at liberty to raise all the questions during the course of trial which has been developed by the petitioner. At the threshold acceptance would amount to strangle the prosecution in exercise of power under Article 226 of the Constitution of India.

5. The petition has no merit. It is accordingly dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu