

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 329 of 2017

1. Amandeep Singh S/o Late Kuldeep Singh, Aged About 32 Years, R/o 27 Kholi, P.S. - Civil Lines, Tahsil & District-Bilaspur Chhattisgarh., Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through - Department of Home (Police), Mantralaya, Naya Raipur, District – Raipur, Chhattisgarh. , Chhattisgarh
2. The State of Chhattisgarh, Through - Inspector General of Police, Rang - Bilaspur, District -Bilaspur, Chhattisgarh. , District : Bilaspur, Chhattisgarh
3. The State of Chhattisgarh, Through - Superintendent of Police, District-Bilaspur, Chhattisgarh. , District : Bilaspur, Chhattisgarh
4. The State of Chhattisgarh, Through - S.H.O.- Chakarbhata, District-Bilaspur, Chhattisgarh. , District : Bilaspur, Chhattisgarh
5. Nasar Siddiqi, Presently posted as S.H.O. - Civil Line, District – Bilaspur, Chhattisgarh. , District : Bilaspur, Chhattisgarh
6. Salabh Sinha, The City Superintendent of Police (C.S.P.), Bilaspur, District – Bilaspur, Chhattisgarh. , District : Bilaspur, Chhattisgarh
7. Nidhish Jamwar, S/o D.P. Jamwar, R/o Gayaneshwari Residency, Uslapur, Bilaspur, Chhattisgarh P.S.- Civil Lines Bilaspur, Chhattisgarh. Presently Posted as Branch Manager - Srei Equipment Finance Ltd. (SEFL) office at Guru Kripa Tower Vayapar Vihar, Bilaspur, District - Bilaspur, Chhattisgarh. , District : Bilaspur, Chhattisgarh
8. Satishdhar Diwan, S/o Shankardhar Diwan, Aged About 42 Years, Occupation - Transporting, R/o Rajkishor Nagar, Bilaspur, Chhattisgarh P.S. - Sarkanda, Bilaspur., District : Bilaspur, Chhattisgarh

----Respondents

For Petitioner – Shri Hemant Gupta, Advocate.

For Respondents 1 to 4/State – Shri Subhash Yadav, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

03-07-2019

1. This petition under Article 226 of the Constitution of India has been brought praying of quashment of the FIR No.324/17 registered against the petitioner by respondent No.4.
2. It is submitted by the counsel for the petitioner that the petitioner is working as Seizing Agent for several banks and non-banking financial institutions. On 15-06-2017 colleagues of the petitioner had been to the place

of respondent No.7 for the purpose of collection of the charges for pulling the vehicles of respondent No.7. Respondent No.7 abused and threatened the colleagues of the petitioner and thereafter has lodged the FIR against the petitioner making false allegations.

3. It is submitted that respondent No.8 had filed an application on 17-04-2017 (Annexure- P/6) on the basis of which notice under Section 155 of the Cr.P.C. was issued mentioning that no offence is made out from the basis of that complaint. Subsequent to which, again a private complaint was filed, copy of which is attached as Annexure -P/8. Learned JMFC called for police report. In the meanwhile, the respondent No.5 summoned the petitioner and gave threatening to him. The petitioner then filed a private complaint against respondent No.5 and one another which is pending before the Court of learned JMFC Bilaspur. Thereafter, respondent No.5 has maliciously registered Crime No.324/17 which is an act of personal vendetta. Same facts of the complaint filed by respondent No.8 for which earlier notice was issued under Section 155 of the Cr.P.C. Therefore, it is prayed that the petition be admitted, heard and allowed.

Reliance has been placed on behalf of the petition on the judgment of High Court of Bombay (Panji Bench)(D.B.) in the matter of **Vishwajit P Rane Vs. State of Goa; Police Inspector; Aires Rodrigues**, 2010 LawSuit(Bom) 635.

Reliance has also been placed on behalf of the petitioner on the order dated 11-03-2019 in **CRMP No.775 of 2015** (Shyam Sunder Agrawal and another Vs. State of Chhattisgarh) and on the order dated 02-05-2019 in **Criminal Misc. Petition No.836 of 2015** (Amandeep Singh Bains Vs. State of Chhattisgarh), which have been passed by this High Court.

4. Counsel for respondent No.1 to 4 have stated that on the basis of the FIR lodged against the petitioner the investigation has been made which is

now complete. The Crime No.324/17 is registered against the petitioner after completion of the enquiry and the complaint filed by the complainant. There are other criminal cases also which are registered against the petitioner. This is not a case where any extraordinary power can be exercised by this Court. Therefore, it is prayed that the petition may be dismissed at motion stage.

5. In reply it has been submitted by the petitioner that complaint filed by the respondent No.8 is totally false and there is contradictory finding of the investigating officer himself. Therefore, the petition may be admitted.

6. Heard learned counsel for the parties and perused the documents.

7. With respect to the complaint filed by respondent No.8 firstly the notice under Section 155 of the Cr.P.C. was issued, that complaint was filed on 17-04-2017. On perusal of the contents of the FIR of Crime No.324/17 filed as petitioner's document, there is clear mention that another application dated 03-08-2017 was filed by respondent No.8 on the basis of which this FIR has been lodged. This is informed by the respondents side that the investigation is near completion in this case. It is observed that submission have been made regarding non-registration of the FIR on complaint filed by Respondnet No.8 was a different complaint and the FIR has been registered on another complaint filed by respondent No.8. It is bounden duty of the police officer to record FIR if contents of the complaint disclose commission of cognizable offence.

8. The petitioner has remedy available to him to challenge lodging of the FIR under Section 482 of the Cr.P.C. and reliance of the complaint on the judgment of the High Court in the matter of **Vishwajit P Rane Vs. State of Goa; Police Inspector; Aires Rodgiques** (supra) has no application in this case, in that case the High Court of Bombay had invoked Article 226 of the Constitution of India for quashing the FIR on the ground that the FIR was illegally registered, which is not a case here. Therefore, for the reason that the

petitioner has remedy available under Section 482 of the Cr.P.C., there is no reason to entertain this petition under Article 226 of the Constitution of India.

9. Therefore, the petition is not maintainable which is dismissed at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil