

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 670 of 2018

- Gorelal Thakur S/o Late Ramadhin Singh Thakur Aged About 58 Years
R/o Shivesh Sadan In Front of Balaji Temple, Main Road, Kota, Raipur,
Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through The Additional Director General Of Police,
Economic Offences Wing/anti Corruption Bureau Raipur, Chhattisgarh
2. Anil Bakshi S/o Late Gopal Prasad Bakshi Currently Posted As Inspector,
Special Economic Offences Wing/anti Corruption Bureau, Raipur,
Chhattisgarh
3. Superintendent Of Police State Economic Offences Wing/anti Corruption
Bureau Raipur, Chhattisgarh
4. Managing Director Chhattisgarh Tourism Board, Udyog Bhawan, Second
Floor, Ring Road-1, Telibandha, Raipur, Chhattisgarh

---- Respondents

WA No. 695 of 2018

- Harish Pandey S/o Late Shri Jairam Pandey Aged About 57 Years
Assistant Conservator Of Forests, Forest Division Dhamtari, District-
Dhamtari, Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through The Secretary, Department Of Law And
Legislative Affairs, Mantralaya, Mahanadi Bhawan, Naya Raipur
Chhattisgarh
2. Principal Secretary Department of Forests, New Mantralaya, Mahanadi
Bhawan, Naya Raipur Chhattisgarh
3. Superintendent of Police Anti- Corruption Bureau, GE Road, Raipur, Near
Anand Nagar, Raipur Chhattisgarh
4. Station House Officer Anti- Corruption Bureau, GE Road, Raipur, Near
Anand Nagar, Raipur Chhattisgarh

-----Respondents

For Appellants	: Shri Saurabh Dangi, Advocate
For Respondent/State	: Shri SC Verma, Additional AG
For Respondent- 4	: Shri Animesh Tiwari, Advocate

**Hon'ble Shri Ajay Kumar Tripathi, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**

**Per Ajay Kumar Tripathi, Chief Justice
05.03.2019**

1. A preliminary objection was raised in the present appeal with regard to maintainability of the appeal as such against the order of the learned Single Judge, passed in Writ Petition (Cr)-302 of 2017. The appellant had tried to assail the order dated 07.08.2018 of the learned Single Judge, who refused to interfere with the criminal prosecution initiated before a Special Sessions Judge for allegations which constituted offence under Section 13 (2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. This appeal has been filed purportedly under Section 2 of Chhattisgarh High Court Appeal to Division Bench Act, 2006, assailing the order dated 07.08.2018 of the learned Single Judge.
2. The objection on behalf of the respondent- State of Chhattisgarh is based on the decision of Hon'ble Supreme Court rendered in the case of **Ram Kishan Fauji Vs State of Haryana and others** reported in (2017) 5 SCC 533, which has held that an appeal to the Division Bench of High Court may not lie against an order of learned Single Judge refusing to quash an FIR.
3. The Court is not willing to express any final opinion on the question, whether the decision of the Hon'ble Supreme Court in **Ram Kishan Fauji** (*supra*) supports the stand of the State by squarely answering the question of such maintainability of appeal, before a Division Bench of the High Court, at this stage, since cognizance has already been taken against the appellant and trial has begun.

4. The appellant has all the remedy available to him within the framework of law especially under CrPC(Criminal Procedure Code). The appellant is not remediless.
5. The appeal is accordingly dismissed on the above ground alone.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge