

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 525 of 2018

Order Reserved on : 06/08/2019

Order Delivered on : 29/08/2019

1. Anvesh Mishra, S/o Late Sushil Kumar Mishra, Aged About 33 Years
R/o Shri Ram Park Colony House No. D-9, Near Pamp House
Maharashtra Pratap Nagar Tifra, Thana - Sirgitti Bilaspur Chhattisgarh.
2. Priya Mishra, D/o Late Kumar Mishra, Aged About 30 Years R/o Shri
Ram Park Colony, House No. D-9 Near Pamp House Maharashtra
Pratap Nagar Tifra Thana Sirgitti, Bilaspur, Chhattisgarh.
3. Poonam Mishra, D/o Late Sushil Kumar Mishra, Aged About 27 Years
R/o Shri Ram Park Colony, House No. - D-9, Near Pamp House,
Maharashtra Pratap Nagar, Tifra, Thana Sirgitti, Bilaspur Chhattisgarh.

---- Petitioners

Versus

1. Umesh Singh, S/o Rajendra Singh Aged About 39 Years R/o Shri Ram
Park Colony, House No. D -7, Maharashtra Pratap Nagar Tifra, Thana
Sirgitti, Bilaspur Chhattisgarh.
2. The Station House Officer, Police Station Sirgitti Bilaspur Chhattisgarh.
3. The Director Inspector, General Of Police Raipur Chhattisgarh.

---- Respondents

For Petitioners : Mr. N.K. Shukla, Sr. Advocate with Mr.
Priyankesh Chandrakar, Advocate.

For Respondent/State: Mr. Devendra Pratap Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
CAV Order

29/8/2019

1. Petition under article 226 has been brought praying for relief that court may kindly be pleased to issue a writ of mandamus directing respondent No.2 to re-investigate the case on the basis of material available on record as per law.
2. It is submitted that a quarrel took place between the petitioners and respondent No.1 on 14.4.2018 in which respondent No.1 assaulted, abused and threatened the petitioners. FIR was lodged and offences under Section 294, 323, 506 read with 34 of IPC was registered against respondent No.1. A counter FIR was also lodged by respondent No.1 and based on which offences under Sections 294, 323, 325 of IPC was registered against the petitioners and later on, offences under Section 2(5) of Atrocities Act was also added in the said FIR, which is without any basis. Therefore, it is submitted that the investigation conducted by respondent No.2 is faulty and bad in law. In the FIR registered against the petitioners, the offence under Section 325 of IPC was added erroneously which is not supported by the medical report.

Senior Counsel for petitioner has placed reliance on the judgment of ***Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwandadha Maharaj vs. State of A.P. & Ors.***, reported in ***AIR 1999 SCC 2332***, ***Ram Lal Narang vs. State (Delhi Admn.)***. ***Om Prakash Narang & another vs. State (Delhi Admn.)***, reported in ***AIR 1979 SCC 1791*** & ***H.N. Rishub & another vs. State of Delhi***, reported in ***AIR 1955 SCC 196***, on this point that reinvestigation in the case can be ordered.

3. It is submitted by the counsel for respondents No.2 & 3 that the petitioners have mentioned about two cases in which FIR has been lodged, one by the petitioners and one against them, but there is no specific mention in the relief clause that the petitioner is praying for re-investigating in respect of which crime number. It is also submitted that the case against the petitioners and against the respondent both have been completely investigated and charge-sheets have been filed. Along with petition, a copy of charge sheet filed against the petitioner has also been filed and a perusal of same would demonstrate that one of the victims namely-Umesh Singh, who is respondent No.1, had suffered fracture in ring finger, which is an offence under Section 325 of IPC and is of grievous as described in Section 320 of IPC, therefore, no case is made out for admission of this case.
4. I have heard both the parties and perused the documents on record.
5. Considered on the submissions made by the counsel for both the parties, the grievance that has been made by the petitioners appears to be with respect to the FIR lodged against the petitioners themselves in which it is submitted that offence under Section 325 of IPC has been erroneously added without there being any evidence in support of the same.
6. On perusal of the copy of charge-sheet filed in crime No.119/2018 which is against the petitioners, it is found that there is substance in the evidence that the petitioners engaged in abusing, threatening and assaulting the complainant that is respondent No.1. Further, the medical examination report of respondent No.1 mentions about swelling & pain in the right palm and one abrasion on the left elbow, both the injuries were mentioned to be caused by hard and blunt

object. Examining doctor had advised X-ray examination of the first injury. Report of Radiologist is also attached and according to which, one fracture in ring finger of respondent No.1 was found and reported, which is a bony injury, therefore, it is an injury which is defined under Section 320 of IPC as grievous injury. Therefore, no substance is found on the basis of which any reinvestigation can be ordered.

7. Accordingly, the petition is dismissed at motion stage.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha