

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 781 of 2019

- Hemant Kumar Kushwaha S/o Shri S.N. Ram Kushwaha, Aged About 46 Years, R/o Village - Parri, Mahadev Para, Tehsil and District -Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Station House Officer Police Station Surajpur, District Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh
2. Superintendent of Police District Surajpur, Chhattisgarh., District : Surajpur, Chhattisgarh
3. Tuleshwar Singh S/o Shri Phool Dev Singh, Aged About 27 Years, Presently working as Member R/o Village - Parri, Mahadev Para, Tehsil and District - Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Respondents

For Petitioner – Mr. Sachin Singh Rajput and Mr. Sangeet Kumar Kushwaha, Advocates.

For State/Respondent No.1 & 2 – Ms. Aklansha Jain, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-09-2019

Heard on admission.

1. It is submitted on behalf of the petitioner that the petitioner in this case has been falsely implicated in Crime No.280/2019 alleging commission of offence under Section 294, 323, 506 and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short 'the Atrocities Act'). It is submitted that the petitioner was active in making complaint against the improper functioning and irregularities committed by the Panchyat Parri. Copy of that complaints have been filed as Annexure – P/2, P/3, P/4, P/5, P/6 and P/7 and many other complaints were filed by him. On the basis of the complaint SDO, Rural Engineering works, Sub-Division Surajpur has made an enquiry and submitted report regarding financial irregularities committed by the Panchayat and two others concerned. The FIR (Annexure -P/1) has been lodged by one Tuleshwar Singh on 17-08-2019 regarding occurrence of the

incident on 16-08-2019 against the petitioner. From the wordings of the FIR it is very clear that Rajnish Pandey, Employment Assistant is behind this lodging of the FIR, which is totally a false complaint. On the alleged date of incident, i.e, 16-08-2019 itself the petitioner had made a complaint to the Tahsildar vide Annexure – P/9 regarding illegal encroachment upon his land by the Employment Assistant. Thereafter, on 17-08-2019 the FIR against the petitioner has been lodged which is totally concocted and baseless. The wife of the petitioner has also given a complaint to the Superintendent of Police Surajpur on 07-05-2018 that her husband, this petitioner has been falsely implicated and thereafter the petitioner has also made representation vide annexure - P/10 to the Superintendent of Police, District Surajpur for making a fair investigation. The story in the FIR is totally unbelievable and improbable because the petitioner was not acquainted with the complainant and he did not have knowledge that he is a person belonging to Scheduled Tribe. Therefore, the petitioner has been implicated in this case deliberately, only for the reason that the Panchayat post holders of the Panchayat officials have grievance with this petitioner because he is a whistle blower who is constantly apprising the authorities regarding irregularities and illegalities committed by the Panchayat. Therefore, on this basis it is prayed that the petition be admitted for hearing and interim relief be granted in favour of the petitioner. Reliance on behalf of the petitioner has been placed on the judgment delivered by Hon'ble the Supreme Court on 27-08-2019 in the matter of **Khuman Singh Vs. State of Madhya Pradesh in Criminal Appeal No.1283 of 2019**.

2. Learned counsel for the State/ respondent No.1 and 2 submits that the complaints made by the petitioner against the Panchayat authorities and officers are a separate matter which are not at all connected with the criminal case registered against the petitioner. The complainant in the FIR is a different person, therefore, it cannot be said that he has a personal interest to falsely

implicate the petitioner. And apart from that, there are 5 eye-witnesses of this case who have clearly made statement against the petitioner regarding commission of offence by him. Therefore, the petition brought by the petitioner is without any substance, which may be dismissed at the motion stage.

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

4. According to the contents of the FIR lodged, on the date of incident complainant Tuleshwar Singh who is a member of Scheduled Tribe was present on the spot of the incident along with other labourers for doing plantation work. It is stated that when the work was in progress the petitioner arrived on the spot and used abusive words for the complainant and other labourers by making a mention of the social status of the complainant in an insulting manner. It is stated that then the petitioner threatened the complainant and others with dire consequences and then he assaulted the Employment Assistant with a spade causing injuries to him. On this basis the offence under Section 294, 323, 506 of the IPC and Section 3(2)(v) of the Atrocities Act have been registered against the petitioner.

5. The submission on behalf of the petitioner that the petitioner is constantly complaining against the Panchayat authorities and officials which may be a reason for his false implication and that the petitioner did not know that the complainant was a member of Scheduled Tribe are not undisputed facts, therefore, grounds raised by the petitioner are needed to be established because there is no such admission found at present in the investigation of the case made so far. In the matter of **Khuman Singh Vs. State of Madhya Pradesh** (supra) Hon'ble the Supreme court has after elaborating other materials on record expressed opinion that there is nothing to substantiate that the offence was committed by the appellant only because the deceased belongs to Scheduled Caste. In the case in hand the investigation is at present going on and in further collection of evidence things may become more clear,

further, for the reason that the grounds raised by the petitioner have been disputed and the FIR in this case needs investigation, hence, this Court is not in a position to make any observation that no offence is made out against the petitioner. Therefore, for these reasons, I do not find this petition having substance for admission. Therefore, the petition is dismissed at motion stage. However, respondent No.1 and 2 are directed to investigate the case in a fair manner by taking into consideration the grounds raised by the petitioner in this petition.

6. The petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge