

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 822 of 2019

- Jitendra Kumar Jangde S/o Shri Tajiram Jangde Aged About 29 Years
R/o Village Balpur, P. S. Sarsiva, Tehsil Bilaigarh, District Baloda
Bazar-Bhatapara Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through The Station House Officer, P.S.-Sarsiva,
District-Baloda Bazar-Bhatapara Chhattisgarh.
2. Prembai Jangde, W/o Babulal Jangde, Aged About 35 Years, R/o
Village Balpur, P. S. Sarsiva, Tehsil Bilaigarh, District-Baloda Bazar-
Bhatapara Chhattisgarh.
3. Babulal Jangde, S/o Shri Tajiram Jangde, Aged About 40 Years, R/o
Village Balpur, P. S. Sarsiva, Tehsil Bilaigarh, District-Baloda Bazar-
Bhatapara Chhattisgarh.
4. Twinkle Jangde, D/o Babulal Jangde, Aged About 8 Years, R/o Village
Balpur, P. S. Sarsiva, Tehsil Bilaigarh, District Baloda Bazar-Bhatapara
Chhattisgarh,

---- Respondents

For Petitioner	: Mr. Raj Bahadur Singh, Advocate
For Respondents/State	: Mr. Neeraj Pradhan, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on board

19/09/2019

1. Heard on admission.

2. Petition has been brought under Article 226 of the Constitution of India praying for independent and fair investigation of the case and also for a direction to conduct Narco-analysis test of the petitioner and the respondents No.2 & 4.
3. It is submitted that on the basis of a complaint made by respondent No.2, FIR has been registered against the petitioner and his brother for commission of offence under Sections 354 & 376(B)(A) of IPC and under Sections 5M, 5N, 6, 7, 8 & 10 of the POCSO Act. Infact, there had been a dispute regarding partition of property between the petitioner and the private respondents since long and due to said animosity, a false FIR has been lodged against the petitioner and his brother. Statement of the witnesses themselves show that the allegations made against the petitioner are highly improbable. Petitioner is a government servant and working as Multiple-purpose Health Worker and residing in the place of his posting, therefore, the possibility of his being present on two places cannot be made out, as the place of incident is different. Number of persons have given affidavits making statement in favor of the petitioner and copies of the same have been filed along with petition. Brother of the petitioner has also made a complaint to the Superintendent of Police, Balodabazar regarding false complaint made by respondent No.2. The same complaint has been given to other authorities also. On this basis above, it can be held that the prosecution of the petitioner in the case is baseless. Hence,petition be admitted

and appropriate direction be issued.

4. Learned State counsel opposes the submissions made and it is submitted that in the FIR lodged by respondent No.2, two fold allegations have been made by respondent No.2 that since last 15 years she had been molested and her modesty was outraged by the petitioner and his brother, who happen to be the brothers of her husband. When the complaint made by respondent No.2 in this regard to her husband and in-laws went unheard, she started living separately. Thereafter the petitioner started outraging modesty of respondent No.4, who is 8 years old girl, and this has continued for about 5 years when the incident of outraging modesty of respondent No.4 was witnessed by respondent No.2 on 28.3.2018, subsequent to which the complaint was filed and on that basis FIR has been lodged. After completion of investigation, charge-sheet has already been filed, therefore, there is no substance in this petition.
5. I have heard both the parties and perused the documents on record.
6. Perusal of the documents filed along with the petition, especially copy of FIR in which direct allegation has been made against the petitioner by respondents No.2 & 4, which is substantiated from the statement of witnesses, as it is found in the case diary presented by the State Counsel, leaves no room for any other conclusion. The ground that there had been a previous dispute

regarding partition and the ground of probability are including grounds in defence which can be established in the trial itself by the petitioner by way of his defence, therefore, I do not find any reason to entertain this petition which is liable to be dismissed and is hereby dismissed at the motion stage itself.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha