

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 489 of 2019**

*(Arising out of order dated 19.03.2019 passed by the learned Single Judge in
Writ Petition (CR) No. 682 of 2018)*

- Arpit Jain S/o Late Shri A K Jain Aged About 34 Years R/o F-23, New Punsheel Nagar, Near CM House Raipur Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Home (Police) Department, Mahanandi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. The Superintendent of Police Raipur District Raipur Chhattisgarh
3. The Station House Officer Police Station Civil Line, Raipur District Raipur Chhattisgarh
4. Roshan Mishra S/o Sitaram Mishra Aged About 34 Years R/o In Front of Nursing College, Tikrapara, Raipur Police Station Civil Line, District Raipur Chhattisgarh

---- Respondents

For Appellant	:	Shri B.P. Sharma and Shri Manay Nath Thakur, Advocates
For Respondents No. 1 to 3/State	:	Shri Vikram Sharma, Deputy GA
For Respondent No.4	:	Shri Rajesh Jain, Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per, P.R. Ramachandra Menon, Chief Justice****18/11/2019**

1. I.A. No. 01/2019 is a petition for leave to file appeal, pointing out that the Appellant was not a party to the writ petition filed by the 4th Respondent and it is against the Appellant that a Crime has been ordered to be registered by the learned Single Judge, as prayed for by the writ petitioner.
2. Heard Shri B.P. Sharma, the learned counsel appearing on behalf of the Appellant, Shri Vikram Sharma, the learned Deputy Government Advocate

representing the State and Shri Rajesh Jain, the learned Counsel for the 4th Respondent/writ petitioner.

3. We find it appropriate to have the leave granted to file the appeal. I.A. No. 01 of 2019 stands allowed.
4. As agreed by both the parties, the appeal is taken up for consideration, though it is 'defective', in view of the submissions made across the Bar that the issue has already been settled between the parties.
5. Shri B.P. Sharma, the learned counsel appearing on behalf of the Appellant submits that the complaint preferred by the 4th Respondent before the Police was inquired into and based on the materials collected, the 3rd Respondent endorsed that no offence was made out and this was approved by the higher authorities, pursuant to which the complaint was closed. Annexure-A/2 is the closure report in this regard. It is without any regard to the said proceedings, that the matter was sought to be pursued by the 4th Respondent by filing writ petition, seeking for a direction to register a Crime in respect of the alleged assault and loot of his vehicle; that too without impleading the Appellant in the party array. Accepting the submission made by the writ petitioner, a learned Single Judge of this Court disposed off the writ petition, directing the Police to register FIR and to proceed with further steps in view of the law declared by the Apex Court in case of ***Lalita Kumari Vs. Government of Uttar Pradesh and Others (2014) 2 SCC 1***. This hence is sought to be interdicted by filing the appeal, referring to actual facts and figures.
6. Today, when the matter is taken up for consideration, the learned counsel for the Appellant submits that the 4th Respondent has filed I.A. No. 03/2019 virtually conceding that the registration of FIR was pursuant to some mutual misunderstanding and that issue has been resolved between the parties as discernible from Annexure-R4/1 settlement. It is also pointed out that both the Appellant and the 4th Respondent are present in person before this Court.

7. The learned counsel for the 4th Respondent submits that the said Respondent does not have any objection in interdicting the verdict passed by the learned Single Judge and to have the proceedings closed by the Police.
8. The learned counsel for the State submits that the matter was inquired into, but no offence was made out earlier and a closure report was submitted; a copy of which has been produced as Annexure-R1 along with their reply as well.
9. We cannot, but deprecate the casual way in which the process of this Court is put to abuse by the 4th Respondent / writ petitioner. Though heavy cost is liable to be inflicted upon the said Respondent / writ petitioner, on the persuasive submissions made by the learned counsel, we reluctantly refrain from the same.
10. In view of the turn of events, as mentioned above, we find it appropriate to set aside the verdict passed by the learned Single Judge. It is ordered accordingly. The Police is at liberty to take further steps with reference to the settlement of the issue as disclosed from Annexure-R4/1 and the submissions made by the learned counsel representing the parties before this Court, taking the proceedings to a logical conclusion.

The appeal stands allowed. No cost(s).

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge