

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 11/02/2020

Delivered on 28/02/2020

CRMP No. 242 of 2020

1. Ajit Pramod Kumar Jogi, S/o- Late Shri K.P. Jogi, Aged about- 73 years, R/o- Anugraha, Sagaon Bungalow, Civil Lines, Raipur, Chhattisgarh.
2. Amit Ashwarya Jogi, S/o- Shri Ajit Pramod Kumar Jogi, Aged about- 43 years, R/o- Marwahi Sadan, Infront of IG Office, Bilaspur, Chhattisgarh. **---- Petitioners**

Versus

1. State of Chhattisgarh Through Secretary, Department of Home Affairs, Mahanadi Bhavan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh.
2. Superintendent of Police Bilaspur, District Bilaspur Chhattisgarh.
3. Station House Officer Police Station Civil Lines, District Bilaspur Chhattisgarh. **---- Respondents**

For petitioners	: Mr. Surendra Singh, Sr. Advocate along with Mr. Vivek Sharma, Advocate
For State/respondent	: Mr. Mateen Siddiqui, Dy.A.G. & Mr. Afroj Khan, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Order

1. This petition is preferred under Section 482 of Code of Criminal Procedure, 1973 for quashing of the F.I.R.(Annexure P-1) Registered at police Station Civil Lines, vide Crime No. 31/2020, dated 16th of January, 2020 for commission of offence under Section 306 read with Section 34 of Indian Penal Code, 1860.
2. As per version of the petitioners, name of the deceased is Santosh Kaushik who was working in the house of the petitioners from last five years as care-taker alongwith many

other employees. One silver article was missing from the house that is why petitioner No.2. Amit Ashwarya Jogi made general query from all the employees of the house around 10th of January, 2020 thereafter, both the petitioners went Raipur on 13th of January, 2020 and on 15th of January, 2020 deceased Santosh Kaushik committed suicide by hanging himself. In the garage of the petitioners house. On 16th of January, 2020. Brother of the deceased made written complaint in the police station that he has suspicion that because of torture of petitioners, his brother committed suicide. On the basis of said complaint of brother of the deceased the F.I.R. was registered at Police Station Civil Lines vide Crime No. 31/2020 for commission of offence under Section 306 read with 34 of I.P.C. The Police has registered the complaint without ascertaining the cause of suicide therefore, registration of F.I.R. against the petitioners amounts to abuse of due process of law and only because of extraneous political consideration F.I.R. has been registered.

3. Learned counsel for the petitioners submits that on the date of incident the petitioners were not present at Bilaspur therefore, no question of giving any physical torture or inducement arise in the present case. Many other employees are also working in the house and none of them made any complaint that deceased or they were tortured by the petitioners regarding stolen of silver article. Even in the written complaint brother of deceased only raised suspicion therefore, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against

the petitioners. The allegations and materials do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code. The allegations made in the report was absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the petitioners. For constituting the offence under Section 306 of I.P.C. there has to be an act of abetment as defined in Section 107 of I.P.C. There is no evidence on record to show that deceased was left with no other option but to commit suicide. For the reason that initiation of criminal proceedings are abuse of process of law therefore, said F.I.R. be quashed in the interest of justice. He placed reliance in the matters of **State of Haryana and Others Versus Bhajan Lal and Others**, reported in **1992 supp(1) Supreme Court Cases 335**; **Mahendra Singh Gaytribai and Another Versus State of M.P.**; reported in **1995 Supp Supreme Court Cases 731**; **Gangula Mohan Reddy Versus State of Chhattisgarhm**, reported in **(2010) 1 Supreme Court Cases 750 & Praveen Pradhan Versus State of Uttaranchal and Another**, reported in **(2012)9 Supreme Court Cases 734**.

4. On the other hand, learned State Counsel submits that there is prima facie evidence against the petitioners regarding constant torture and threatening of physical violence against the deceased. He was confined in the house of the petitioner and committed suicide in their house. All the aspects required investigation and investigation is at initial stage therefore, it is

not a case where interference of this Court is required with the investigation in question.

5. He placed reliance in the matter of **Chitresh Kumar Chopra Versus State (Govenment of NCT of Delhi)**, reported in **(2009) 16 Supreme Court Cases 605; Praveen Pradhan Versus State of Uttaranchal and Another**, reported in **(2012)9 Supreme Court Cases 734 & Munshiram versus State of Rajasthan and Another**, reported in **(2018)5 Supreme Court Cases, 678.**
6. The question for consideration of this Court is whether it is a case for invoking an inherent power by this Court to prevent abuse of the process or otherwise to secure the ends of the justice.
7. Admittedly, deceased Santosh Kaushik was working in the house of the petitioners. He committed suicide on the said house on 15th of January, 2020 by hanging himself. The F.I.R. was lodged on next day of the incident i.e. 16th of January, 2020 by brother of the deceased namely Krishna Kumar Kaushik and same was registered as Crime No. 31/2020 for commission of offence under Section 306/34 of I.P.C. This petition is preferred after 5 days of registration of an F.I.R. for quashing the F.I.R. on 21st of January, 2020. After registration of F.I.R. the Police authorities recorded statements of Krishna Kumar Kaushik, Rakesh Kumar Kaushik (brothers of the deceased) Saroj Kashyap and Kavita Kaushik (wife of the deceased) who have stated that because of constant torture and threatening of physical violence by the petitioners the deceased committed suicide. In the light of the fact, there are

aspects which may requires investigation of the same. It is no more res integra that provision of Section 482 has to be utilized cautiously while quashing F.I.R. In the present case the investigation is at initial stage which requires to ascertain existence or non-existence of any prior mental condition of the deceased prior to commission of suicide.

8. **In the matter of State of Haryana and Others Versus Bhajan Lal and Others**, reported in **1992 Supp(1) Supreme Court Cases 335**. “The Hon'ble Apex Court has held that it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.” The other citations on behalf of the petitioners in the present case of Hon'ble Apex Court on merit of cases do not help at this juncture.
9. Taking into consideration, the totality of the fact and material brought before this Court, it is not a case where F.I.R. can be quashed at the threshold.
10. Accordingly, the petition is hereby dismissed at motion stage itself. Interim application stands disposed of.

Sd/-
(Ram Prasanna Sharma)
Judge