

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 26 of 2020**

*{Arising out of order dated 05.11.2019 passed by the learned Single Judge in Writ
Petition (Cr.) No. 912 of 2019}*

- I. Lakra S/o Late P. Lakra Aged About 58 Years C.G. High Court Bar, Chember No. 40, Post Office And Police Station Chakarbhata, District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. Prakash Jeet Jha S/o Dhirananad Jha Aged About 45 Years R/o Nayapara, Ward No. 4, Post Office And Police Station Chakarbhata, District : Bilaspur, Chhattisgarh
2. Kalpana Jha W/o Prakash Jeet Jha Aged About 38 Years R/o Nayapara, Ward No. 4, Post Office And Police Station Chakarbhata District : Bilaspur, Chhattisgarh
3. Praveen Rajput Thana Incharge Chakarbhata, Aged About 45 Years, District : Bilaspur, Chhattisgarh
4. Superintendent Of Police District Bilaspur Chhattisgarh.
5. Inspector General of Police District Bilaspur Chhattisgarh.

---- Respondents

For Appellant	:	Shri T.K. Jha and Ms. Avit Lakra, Advocates.
For Respondent No.1	:	Shri Prakash Jeet Jha, in Person.
For Respondent No. 3	:	Shri Rakesh Kumar Jha, Advocate.
For Respondent/State	:	Shri Ghanshyam Patel, Government Advocate.

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

Judgment on Board**Per P. R. Ramchandra Menon, Chief Justice****24.02.2020**

1. Interference declined by the learned Single Judge with regard to the prayer raised to register of FIR, in respect of the cognizable offences stated as

committed by the Respondents No. 1 and 2, made the writ Petitioner to approach this Court by way of this appeal.

2. The specific case projected by the learned counsel for the Appellant was that, the Appellant had preferred a complaint, referring to facts and figures and the offences committed by the Respondents concerned before the Police authorities. But, the same was given only scant regards, saying that it was only a 'landlord and tenant dispute', the Appellant being the tenant of the Respondents No. 1 and 2. The matter was not properly appreciated by the learned Single Judge and referring to some provisions of law and judgments rendered by the Apex Court, the writ petition was dismissed, the operative portion of which as given in paragraph 14 is to the following effect:

“14. Reverting to the facts of the present case, in this case also, it is the case of the petitioner that the complaint discloses the commission of cognizable offence, whereas it is the case of the State/respondents No. 4 & 5 that complaint does not disclose any cognizable offence, as the dispute is purely a dispute between landlord and tenant, as such, FIR cannot be registered, and, therefore, in this fact-situation, in my considered opinion, the remedy of the petitioner, if any, is to avail the remedy available to him under Section 154(3), 156(3) 190 and 200 of the CrPC, as such, no direction can be issued to register FIR against respondents No. 1 & 2 in extra-ordinary jurisdiction under Article 226/227 of the Constitution of India. The writ petition deserves to be and is accordingly dismissed subject to the aforesaid liberty reserved in favour of the petitioner. No order as to cost(s).”

3. When the matter came up for consideration before this Court, going by the materials brought on record, we sought for the instructions from the part of the Respondents as to the various ingredients of the offences made out in respect of the alleged commission of cognizable offences; the course of action to be pursued with reference to the verdict passed by the Apex Court in ***Lalita Kumari vs. Government of U.P.*** reported in (2014) 2 SCC 1 and also as to how the Respondents could simply brand it as a 'landlord and tenant dispute'.

Pursuant to the order passed by this Court on 11.02.2020, the learned counsel representing the 3rd Respondent-SHO sought for breathing time to put forth their version including the subsequent developments, by filing an affidavit. The 3rd Respondent has filed a return dated 24.02.2020 and a compliance report has been filed by the City Superintendent of Police, Civil Lines, Bilaspur, supported by an affidavit dated 22.02.2020 as to the course and events. Paragraphs 9 and 10 of the affidavit dated 22.02.2020 are to the following effect:

“9. That, after receiving the preliminary enquiry, the SP Bilaspur scrutinized the preliminary enquiry submitted by the DSP ICUW, Bilaspur wherein, it was found that, since the complaint discloses the cognizable offence and there are also need to make an enquiry in detail, therefore, the SP, Bilaspur directed the concerned SHO, PS Chakarbhata, District Bilaspur to register FIR and a detailed investigation to be made and to submit a final report in this regard. Copy of the letter, issued by the SP, Bilaspur to SHO, PS Chakarbhata, is being annexed herewith as **Annexure R-4/3**.

10. That, after receiving the direction from the SP, Bilaspur, the concerned SHO, PS Chakarbhata has registered an FIR on 20.02.2020 under Crime No. 0041/2020 against the private respondents for the offence punishable under Sections 457, 380, 294, 420, 467, 471, 385, 461 and 464 of the Indian Penal Code, 1860 and under Sections 3-(s) and 3-1 (t) of the SC and ST (Prevention of Atrocities) Act, 1989 (amended in 2015) and after registration of FIR, the matter has been taken into investigation in detail. Copy of the FIR dated 20.02.0220 under Crime No. 41/2020, registered at Police Station Chakarbhata, District Bilaspur, is being annexed as **Annexure R-4/4**. Since, the FIR also includes the Sections under the SC and ST (Prevention of Atrocities) Act, 1989 (amended in 2015), therefore, the investigation has been handed over to DSP, AJK Bilaspur.”

4. In view of the turn of events, particularly, as to the registration of the crime against the persons concerned in respect of the offences as mentioned above, we do not find it necessary to proceed with any further steps, insofar as the scope of this appeal is concerned. The appeal stands closed without prejudice to the rights and liberties of the Appellant to pursue the matter in respect of

other subsisting grievance, if any, in accordance with law before the appropriate forum.

5. The Respondent No. 1 appearing in person submits that the story carved out by the Petitioner/Appellant is far from the track of truth and the attempt is only to have the Respondents No. 1 and 2 to be falsely implicated in the crime, for not yielding to some unlawful demands. We are not expressing any opinion with regard to the rival contentions or as to the merit of the case. It is open for the Respondents No. 1 and 2 as well, to pursue appropriate remedy, in accordance with law, by way of appropriate proceedings, if there is any grievance with regard to the course and proceedings.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge