

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Cr.) No.21 of 2021

Ramanand Nishad, S/o Shri Bhuvneshwar Nishad, Aged 31 years, R/o Village Pasoud, P.S. Fingeshwar, Tehsil Rajim, District Gariyaband (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through its Secretary, Department of Home, Mantralay, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur
2. The Superintendent of Police, District Raipur (C.G.)
3. The Incharge Officer, Police Station Amanaka, District Raipur (C.G.)
4. Smt. Ishwari Dhruw, W/o Shri Chaman Lal Dhruw, Aged 26 years, R/o Village Madwadih, Police Station Gariyaband, District Gariyaband (C.G.)

---- Respondents

 For Petitioner: Mr. Rajesh Kumar Kesharwani, Advocate.
 For Respondents No.1 to 3 / State: -
 Mr. Sunil Otvani, Additional Advocate General,
 on advance copy.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board19/01/2021

1. Heard on admission and application for grant of interim relief.
2. The petitioner seeks to challenge the FIR registered against him for offence under Sections 376 and 506 of the IPC and Section 3(1)(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. Mr. Rajesh Kumar Kesharwani, learned counsel appearing for the petitioner, would submit that the alleged offence has been

committed on 11-6-2020 and FIR has been made on 18-6-2020, there is huge delay in lodging the FIR and the petitioner has been falsely implicated in the offence. He would further submit that even after marriage of respondent No.4, the petitioner has given money to respondent No.4 on 18-5-2020 which shows that it is a clear case of consent, therefore, no case is made out against the petitioner for offence under Section 376 of the IPC. He would rely upon the decision of the Supreme Court in the matter of Prathvi Raj Chauhan v. Union of India and others¹ to support his contention.

4. All the submissions raised by the petitioner viz., there is delay in making FIR, the petitioner has been falsely implicated as there is long relationship between the petitioner & respondent No.4, it is a case of consent and even after the respondent No.4 victim is married, some payment has been made to her by the petitioner which goes to show that there is consent between the petitioner & respondent No.4, are matters / grounds to be taken during trial, as such, no case for quashment of FIR at this stage is made out in light of the decision of the Supreme Court in the matter of State of Haryana and others v. Bhajan Lal and others². As such, the writ petition deserves to be and is accordingly dismissed *in limine*, without notice to the other side. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

1 (2020) 4 SCC 727

2 1992 Supp (1) SCC 335