

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 24 of 2021

- Mantu @ Bantu @ Jyotish Agrawal S/o Shri Murlidhar Agrawal, Aged About 33 Years, R/o Near Cooperative Bank Pithora, Police Station and Tehsil - Pithora, District - Mahasamund Chhattisgarh.(Accused), District : Mahasamund, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, through Station House Officer, Police Station Pithora, District - Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
2. Nirmal Singh Thakur, S/o Late Shri Chhatar Singh Thakur, Aged About 62 Years, R/o. Ward No.9, Purani Basti, Pithora, Police Station and Tehsil - Pithora, District - Mahasamund Chhattisgarh. (Complainant), District : Mahasamund, Chhattisgarh
3. State Of Chhattisgarh, through Station House Officer, Scheduled Caste and Scheduled Tribe Welfare Police Station Mahasamund, District - Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Respondents

For Petitioner – Shri Surfaraj Khan, Advocate.

For State/Respondents No.1 and 3 – Shri D.P. Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-01-2021

1. This petition under Article 227 of the Constitution of India has been brought with a prayer to quash the order dated 30-12-2020 passed in Special Criminal Case No.H-26/2020.

2. It is submitted by learned counsel for the petitioner that the offense under Section 147, 294, 323, 506 of the IPC and Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the SC/ST Act') have been investigated against the applicant, consequent to that, the Charge sheet has been filed on 30-12-2020 before the Special Court constituted under the SC/ST Act, Mahasamund. The learned Court has without making any verification that whether the investigating officer who holds the rank of SDO(P) Pithora, District Mahasamund was notified for making such investigation or not, has entertained the charge sheet.

Rule 7 of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (in short 'the SC/ST Rules, 1995') specifically provides that an

offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. Such investigating officer shall be appointed by the State Government/Director General of Police/Superintendent of Police after taking into consideration his past experience etc. Sub-rule (2) further provides that the investigating officer so appointed under sub-rule (1) shall complete the investigation in accordance with the directions given. It is submitted that the charge sheet contains no such document to show that the SDO(P) Pithora was appointed to investigate this case. In case, the investigating officer is not such officer authorized under Rule 7 of the SC/ST Rules, 1995, then the same may cause prejudice to the accused who is the petitioner before this Court. Therefore, the petition be admitted for hearing.

3. On perusal of the documents filed with the petition it would be seen that the investigating officer of the case is an officer of the rank of Deputy Superintendent of Police. Article 227 of the Constitution of India cannot be invoked for making such queries on behalf of the petitioner from the State Government. The only question raised in this petition by the petitioner's side is this, that the investigating officer was not authorized. This question can be raised before the trial Court itself under Section 461 of the Cr.P.C. Hence, there is no reason present to entertain this petition and accordingly, the same is disposed off at motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge