

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 176 of 2019****Reserved on 7-10-2021****Delivered on 17-11-2021**

1. Kumar Rohit Singh S/o Shri Vijay Pratap Singh Aged About 32 Years R/o Behind - Shukla House, Hemu - Nagar, Bilaspur CG, Police Station - Torva, Tahsil And Revenue - District - Bilaspur CG
2. Narendra Yadav S/o Shri Virendra Singh Yadav Aged About 37 Years R/o Hemu - Nagar, Bilaspur CG, Police Station - Torva, Tahsil And Revenue District - Bilaspur CG

---- Applicant**Versus**

1. Santosh Kumar Vani S/o Shri Prabhu Das Aged About 30 Years R/o - Majhwapara, Jarhabhata, Ward No. 12, Bilaspur CG, Police Station - Civil Lines, Tahsil And Revenue District - Bilaspur CG
2. State of Chhattisgarh Through District - Magistrate Bilaspur District - Bilaspur (CG)

----Non-applicant

For applicants	: Mr. Shyam Sunder Lal Tekchandani, Adv.
For respondent No. 1	: None.
For respondent no. 2	: Mr. V.K. Agrawal, PL

Hon'ble Shri Justice N.K. Chandravanshi**CAV Order**

1. This criminal revision has been preferred by the applicant being aggrieved by the order dated 2-4-2017 of registration of criminal complaint (Case No. 13/2017) against the applicants under Section 294, 323, 506-B of the Indian Penal Code (in brevity 'IPC') and Section 3(1)(R), 3(1)(S) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'Atrocities Act') and also against the order dated 5-9-2017 whereby charges for the aforesaid offences have been framed.

2. Brief facts of the case are that in the year 2013, complainant/ non-applicant No. 1 Santosh Kumar Vani had taken some loan from applicant No. 2 Narendra Yadav and for security

purpose, he had given two cheques to applicant No. 2. Later on, respondent No. 1 asked applicant No. 2 to return both the cheques, but he said that if he will give Rs. 2 lacs to him, then only he will return both the cheques. On 9-1-2015, non-applicant No. 1 gave written complaint to Inspector General of Police, Bilaspur in this regard. On 26-7-2016 at about 10.00 am, when non-applicant No. 1 was going to Sanichari on motorcycle with one Govind Banjare, then at Gondpara, bank of river, applicants stopped them, they demanded to return Rs. 2 lacs and when non-applicant No. 1 said that he is ready to return Rs. 1 lac, the applicants got angry, abused them in filthy language, also abused non-applicant No. 1 by naming his caste, committed marpeet with him. When Govind Banjare tried to intervene, then applicants also abused him in filthy language and threatened him also. On the same day, non-applicant No. 1 sent written complaint to the Inspector General of Police, Bilaspur, and other higher officers, but no action was taken against them, hence non-applicant No. 1 filed complaint under Section 200 of the Code of Criminal Procedure in the Court of Special Judge (Atrocities), Bilaspur for registration of criminal case under Section 341, 294, 323, 506 of the IPC and Section 3(1)(x) of the Atrocities Act against the applicants/accused.

3. Learned Court below after recording of statement of non-applicant No. 1/complainant and his witnesses under Section 200/202 of the Cr.P.C., vide order dated 2-4-2017 registered complaint case against the applicants/accused under Section 294, 323, 506-B of the IPC and Section 3(1)(R), 3(1)(S) of the Atrocities Act and after appearance of applicants/accused, vide order dated 5-9-2017 framed charges for the aforesaid offences. Hence, this revision.

4. Learned counsel for the applicants would submit that alleged criminal complaint case is totally false and baseless and has been filed only to get rid of the cheque bounce case filed by the applicant No. 1, against the non-applicant No. 1. He would further submit that as per the complaint and statement of

complainant and his witnesses, date of incident is 26-7-2016, but instead of filing FIR in concerned police station, the complainant is said to have sent complaint to the Inspector General of Police, Bilaspur, and other higher officials and thereafter, on 25-1-2017, he filed present criminal complaint against the applicants, but before filing present criminal complaint, the applicant No. 1 Kumar Rohit Singh had filed complaint case No. 814/2016 against non-applicant No. 1/complainant of present case, therefore, to get rid of this cheque bounce case, the non-applicant No. 1/complainant filed present complaint case against the applicants and to show that with regard to the alleged present incident dated 26-7-2016, he had made report to the police, he had filed documents regarding sending of complaint to the Inspector General of Police, Bilaspur, that too, on the same date 26-7-2016. Learned counsel for the applicants would next submit that in reply to the application filed by the applicant No. 1 Kumar Rohit Singh under the Right to Information Act, the office of Superintendent of Police, Bilaspur has informed vide Annexure P-7 that as per complaint register maintained in the office, no complaint dated 26-7-2016 against him (applicant Kumar Rohit Singh) made by the non-applicant Santosh Kumar Vani has been received from Inspector General of Police, Bilaspur. This fact also shows that alleged incident was false and fabricated, therefore, non-applicant No. 1 has not lodged FIR directly in the concerned police station. Learned counsel for the applicants would also argue that non-applicant No. 1/complainant later on also has sent written complaint against applicant No. 1 Kumar Rohit Singh and other persons that on 25-1-2017, they entered in his house, demanded return of loan amount and abused him, his brother Ashok and Govind Banjare in filthy language, also abused by naming their caste, and threatened to kill them. But, when the matter was inquired by the City Superintendent of Police, Civil Lines, Bilaspur in pursuance of memo dated 27-1-2017 of Inspector General of Police, Bilaspur, vide report dated 30-3-2017, the City Superintendent of Police, Civil Lines, Bilaspur has submitted inquiry report vide Annexure

P-8 that "in inquiry, it was found that there is a dispute between the applicant (Santosh Kumar Vani) and non-applicants (Kamal Gupta, Kumar Rohit Singh and others) with regard to transaction of money and non-applicants have filed cheque bounce case against the applicant Santosh Kumar Vani in the court, therefore, being aggrieved by this, he had filed alleged complaint exaggerating the facts against non-applicants. Copy of this report Annexure P-8 has been obtained by the applicants of present case, through the application under Right to Information Act. Learned counsel for the applicants would further submit that aforesaid facts clearly shows that present criminal complaint is totally false and is baseless and it has been filed only to pressurize the applicants in Cheque bounce case No. 814/2016 filed by the applicant No. 1 Kumar Rohit Singh against the non-applicant No. 1/complainant Santosh Kumar Vani. Therefore, the impugned orders may be set aside and the applicants be discharged from the above offences.

5. Despite service of notice to non-applicant No. 1 Santosh Kumar Vani, neither he appeared nor represented by any counsel.

6. Learned counsel for the State would submit that State is a formal party in this case.

7. I have heard learned counsel for the applicants and perused the material available on record including the impugned orders.

8. In the present case, as per complainant, he had taken some loan from the applicant No. 2 Narendra Yadav, and in lieu thereof, he gave two cheques to him. When the complainant demanded back those two cheques from the applicant No. 2, he asked him to return Rs. 2 lacs, then only he will return the cheques. In this regard, the complainant made written complaint to the Inspector General of Police, Bilaspur. Date of incident of the present case is said to be 26-7-2016, in which, it is alleged that when at about 10 am, the complainant along with his friend Govind Banjare was going on motor cycle, applicants stopped them at Gondpara near bank of river, and demanded Rs. 2 lacs and when the

complainant said that he could give them Rs. 1 lac only, being infuriated on this, applicants abused the complainant in filthy language by naming his caste and also threatened to kill him. In the incident, complainant is said to have received multiple injuries, but no medical report has been filed. They also abused and assaulted his friend namely Govind Banjare. The subsequent action taken by the complainant creates a doubt about truthfulness of the above story. The complainant, instead of lodging FIR in the concerned police station, straightway sent written complaint to the Inspector General of Police, Bilaspur, and other higher officials, that too, on same day i.e. 26-7-2016, but he has not stated as to why he did not lodge FIR in concerned police station, which he could have easily done and in this way, he could have been examined by the doctor also, as he has stated that he has sustained various injuries in the incident. It is also worth mention that the alleged incident occurred at 10.000 am, in Gondpara near river bank which is a public place, but no independent witness has been examined by the complainant, present at the place of incident.

9. Annexure P-7 which is reply given by the office of Superintendent of Police, Bilaspur to the application under Right to Information Act filed by the applicant No. 1, shows that as per complaint register, no complaint dated 26-7-2016 against applicant No. 1 has been received from the office of Inspector General of Police, Bilaspur sent by complainant Santosh Vani. This document also falsifies the case of the complainant.

10. Similarly, for the alleged incident of 25-1-2017 in which complainant was abused and marpeet was committed with him, he did not file FIR in the concerned police station but directly sent complaint to the Inspector General of Police. When the matter was inquired by the City Superintendent of Police, Civil Lines, Bilaspur, he submitted report vide Ann. P-8 that "in inquiry, it was found that there is a dispute between the applicant and non-applicant with regard to transaction of money and non-applicants have filed

cheque bounce case against the applicant Santosh Kumar Vani in the court, therefore, being aggrieved by this, he had filed alleged complaint exaggerating the facts against non-applicants.

11. It is pertinent to mention here that on 19-9-2016, i.e. prior to filing of complaint case by the complainant on 25-1-2017, applicant No. 2 Kumar Rohit had filed a complaint case bearing Complaint Case No. 814/2016 against complainant of present case. On the basis of aforesaid discussion, it appears that just to escape and create pressure on the applicant in that cheque bounce case, the complainant/applicant No. 1 of the present case Santosh Vani has filed present complaint case against the applicants and to show his bonafide, he had filed fabricated documents regarding sending of complaint to the Inspector General of Police, Bilaspur, that too, on the same date 26-7-2016.

12. All the above facts show that to get rid of the cheque bounce case filed by the applicants, the complainant has concocted the complaint case against the applicants to pressurize them.

13. Therefore, in view of above, in the opinion of this Court, it is a fit case warranting interference of this Court in the impugned orders dated 2-4-2017 and 5-9-2017 whereby complaint case has been registered and charges have been framed. Therefore, they are set aside. The applicants are discharged from the charges framed against them.

14. Revision allowed.

Sd/-
N.K. Chandravanshi
Judge