

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.145 of 2021

- Ayodhya Chandrakar S/o Parasram Chandrakar Aged About 54 Years
R/o Village Martara, Police Post Khandsara, Police Station And District
Bemetara Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station
Bemetara, District Bemetara Chhattisgarh

---- Respondent

For Petitioner	:	Ms. Sharmila Singhai, Advocate.
For Respondent/State	:	Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-03-2021

1. This Criminal Revision has been brought against the order dated 22.01.2021, passed by the Additional Sessions Judge, Bemetara, District- Bemetara, C.G. framing charge against the applicant under Section 376(2)(a) and 506-II of I.P.C.
2. It is submitted by the learned counsel for the applicant that the complainant/prosecutrix firstly lodged F.I.R. against this applicant on 09.06.2015, which was registered for offences under Section 294 and 354 (B) and 323/34 of I.P.C., hence, there was no allegation of rape. The prosecutrix then again filed a complaint on 23.03.2016 alleging that she was compelled to withdraw her previous complaint and then by putting her under threat, the applicant used to rape her. The prosecutrix

then again filed an application vide Annexure-A/10 for withdrawal of complaint. It is subsequent to that, the prosecutrix has lodged the present F.I.R. against the applicant which is dated 02.06.2016 making false allegations against the applicant.

3. It is further submitted that all the complaints that have been made by the prosecutrix are of the same incident, she has twice withdrawn the complaint against the applicant and then again finally lodged the present F.I.R. which shows that the prosecutrix is habitual in lodging false reports.
4. Relying on the judgment of Supreme Court in Criminal Appeal No.283 of 2021 between **Krishna Lal Chawla and Ors. Vs. State of U.P. & Anr.** decided on 08.03.2021, it is submitted that the Apex Court has held that it is the duty of the trial Court to prevent frivolous litigations in the bud, even before they reached the stage of trial by discharging the accused in fit cases.
5. Reliance has also been placed on the judgment of Supreme Court in the case of **Satishchandra Ratanlal Shah Vs. State of Gujrat** reported in A.I.R. 2019 Supreme Court 1538, therefore, it is prayed that the prosecution against this applicant is totally frivolous, which should be nipped in the bud.
6. It is further submitted by the learned counsel for the applicant that earlier a Cr.M.P. No.732 of 2016 was filed by the applicant, on which vide order dated 26.07.2016, this Court had allowed the prayer for interim relief. Because of non-appearance of the petitioner, the interim order dated 15.07.2016 has been vacated by this Court. It is submitted that this Court had found substance in the petition under Section 482 of Cr.P.C., therefore, the interim relief was granted to the applicant. Hence, it is prayed that this revision petition may be allowed, the impugned

order be set aside and the applicant be discharged.

7. Learned State counsel heavily opposes the submissions and submits that the charge-sheet discloses presence of prima facie case against this applicant for framing charges as framed by the learned trial Court. It is further submitted that the submissions of the applicant side are to challenge the veracity of the prosecutrix and the witnesses, which cannot be done at the stage of framing charge.
8. Relying on the judgment of Supreme Court in the Case of **Bhawna Bai Vs. Ghanshyam** reported in A.I.R. 2020 SC 554, it is submitted that at the time of framing of charges only prima facie case is to be seen, whether case is beyond reasonable doubt, is not to be seen at this stage. The material in the charge-sheet shows, that there is sufficient ground present against the applicant, hence there is no error in the impugned order, therefore, the revision petition may be dismissed.
9. Considered on the submissions. The submissions made by the applicant side reveal that there is a history of the incidents according to which, previous complaints were lodged against this applicant. In the present F.I.R. lodged on 02.06.2016, the complainant/prosecutrix has given narration about the previous incidents as well as about the incident that has occurred on 23.02.2016 and thereafter. The veracity of the statement of the prosecutrix is subject to examination in trial, in which she may be confronted with her previous complaints and may also be questioned also about her previous conduct of withdrawing the complaints against this applicant. But for the present, this view of the Supreme Court in Bhawna Bai (Supra) has to be followed that at the stage of framing charge. The Court is not required to hold an elaborate inquiry, only prima facie case is to be seen and that the Court is not required to examine whether the evidence in the charge-sheet is beyond

reasonable doubt. It has been held in case of Bhawna Bai (Supra) and in number of other judgments passed by the Supreme Court, therefore, I am of this view that this petition is without any substance, which is dismissed at the motion stage.

10. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Monika