

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 512 of 2020

Shankar Das Vaishnav @ Shivshankar S/o Krishna Lal Vaishnav, Aged About 25 Years, R/o Birra, Police Station Birra, Tahsil Champa, District Janjgir Champa Chhattisgarh.

---- **Petitioner**

Versus

1. State of Chhattisgarh Through The Station House Officer, Police Station Birra, District Janjgir Champa, Chhattisgarh.
2. Parmeshwar Das Vaishnav S/o Bhikham Das Vaishnav, Aged About 30 Years, R/o Bhatapara, District Janjgir Champa, Chhattisgarh.
3. Superintendent of Police, District Janjgir Champa, Chhattisgarh.

--- **Respondent**

For Petitioner	: Mr. S.K. Verma, Advocate.
For Respondent Nos.1 & 3/State	: Mr. Sudeep Verma, Dy. GA.
For Respondent No.2	: Mr. Anil Gulati, Advocate.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

20/10/2021

Heard.

1. Petitioner has filed this petition under Section 482 of Code of Criminal Procedure, 1973 seeking quashment of FIR 17.11.2019 (Annexure P/1) registered under Crime No.98/2019.
2. Learned counsel for the petitioner would submit that on 17.11.19 respondent No.2 along-with others abused and assaulted petitioner and his family members. Incident was reported to the concerned Police Station on same day at about 20:00 hrs. It is respondent No.2, who subsequently lodged FIR on false ground making allegation of abusing in filthy language and assault. Subsequent FIR was lodged by respondent No.2 with ulterior motive on false and frivolous grounds. Hence, subsequent FIR (Annexure P-1) be quashed.
3. Learned State Counsel opposes the submissions made by learned counsel for petitioner and submits that incident is not disputed by petitioner herein. As per case of petitioner himself, some quarrel took

place between petitioner and respondent No.2. Thereafter both the parties have lodged FIR. Second FIR is also lodged on same day but subsequent to lodging of FIR by petitioner. The law with regard to quashment of FIR is well settled that FIR can be quashed only in exceptional circumstances and not in a routine manner. There is no merit in the petition and it is liable to be dismissed.

4. Learned counsel for respondent No.2 submits that it is petitioner who was aggressor. Respondent No.2 also lodged FIR on same day of alleged incident of abusing in filthy language and assault. Based upon which, FIR (Annexure P-2) is registered against the petitioner. He further submits that without recording evidence of witnesses in both crime numbers, it cannot be ascertained as to whose report is false. Hence, relief sought for by the petitioner could not be granted.
5. Heard learned counsel for the parties.
6. A bare perusal of petition would show that petitioner himself has lodged report to the concerned Police Station on 17.11.19 at 20:00 hrs making allegation against respondent No.2 and his family members that they abused in filthy language and also assaulted the petitioner and his family members. Alleged incident stated to be taken place at 19 : 30 hrs. Respondent No.2 also lodged FIR (Annexure P-1) on same day ie 17.11.19. at 23:40 hrs. Incident is not disputed. From contents of FIRs (Annexures P-1 & 2) prima facie at this stage it cannot be ascertained as to who was aggressor. The law has been settled by Hon'ble Supreme Court in case of **State of Haryana versus Bhajan Lal** reported in (1992) **Suppl (1) SCC 335** and recently in case of **Amish Devgan vs Union of India** reported in (2021) **1 SCC 1**. Hon'ble supreme Court has observed that FIR can be quashed only when there is some legal bar against

institution or continuation of prosecution; where allegations made even if taken as it is do not constitute any offence; allegations made do not constitute cognizable offence and allegations made are so absurd and improbable that any prudent person can ever reach to a conclusion that there is sufficient ground for proceeding against accused. None of the above grounds is appearing from pleading and submission of learned counsel for petitioner.

7. In view of above, I do not find any merits in this petition which is liable to be dismissed and it is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-