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**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**WPCR No. 273 of 2021**

Neeraj Jagatramka, S/o. Late Brijbhushan Jagatramka, Aged About 45 Years, R/o. House Number 57 Vrindawan Colony Bhagwanpur, Jindal Road, Raigarh Thana Kotara Road Raigarh, Tehsil and District Raigarh, Chhattisgarh.

**---- Petitioner**

**Versus**

1. State of Chhattisgarh, through the Secretary, Home Department of Home Affairs, Mantralaya, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh.
2. State of Chhattisgarh through Station House Officer, Police Station City Kotwali, District Raigarh, Chhattisgarh.
3. Bhagat Ram Sidar, Aged About 40 Years, presently Posted In Traffic Police Thana as Traffic Constable Traffic Police Thana Darogapara, Chhattisgarh 496001.

**---- Respondents**

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|----------------|--------------------------------------------------------------------|
| For Petitioner | : Mr. K.A. Ansari, Sr. Advocate with<br>Ms. Meera Ansari, Advocate |
| For State      | : Mr. Sudeep Verma, Dy. Govt. Advocate                             |

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**Hon'ble Shri Parth Prateem Sahu, Judge**

**Order on Board**

**01.11.2021**

1. Petitioner has filed this writ petition seeking following relief(s):

“10.1) The Hon'ble Court may kindly be pleased to call for the entire records leading to filing of this petition for the kind perusal of this Hon'ble Court.

10.2) The Hon'ble Court may kindly be pleased to quash the First Information

Report No.0261/2020 registered against the petitioner for the offences defined under Sections 186, 353, 294 of the Indian Penal Code, 1860 at Police Station Kotwali Raigarh, District Raigarh (Annexure P/5).

10.3 Cost of the petition may also be granted to the petitioner.”

2. Mr. K. A. Ansari, learned senior counsel for the petitioner would submit that on 30.04.2019, when petitioner was travelling on his two-wheeler on public road, he got struck in traffic congestion near vegetable market, at that relevant time, one Police official deputed for managing traffic, came near him and started abusing and man-handling the petitioner. Incident was reported to Deputy Superintendent of Police (Traffic), Raigarh. Deputy Superintendent of Police (Traffic) upon asking of petitioner for details of complaint lodged, thrown his badge on the petitioner after snatching from his uniform. After lodging of complaint by petitioner against respondent No.3, he started threatening of dire consequences stating that respondent No.3 belongs to SC/ST community.
3. Aggrieved by aforementioned threat, petitioner lodged a complaint to Superintendent of Police, Raigarh and Inspector General of Police, Bilaspur Range on 02.05.2019 and 24.06.2019, respectively. Surprisingly, petitioner came to

know that First Information Report was registered against him for offences defined under Sections 186, 353 and 294 of Indian Penal Code, 1860 (in short 'IPC') bearing First Information Report No.0261 of 2020 on 16.03.2020. Petitioner being horrified with the action of Police officials, filed an application for grant of anticipatory bail on 20.03.2020 and during the course of hearing of bail application, petitioner came to know that offence defined under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'Atrocities Act, 1989') have been added. It is submitted that no such incident happened as alleged against the petitioner, but it is the Police official on duty i.e. respondent No.3, misbehaved with petitioner, abused him and also man-handled him. There was no report to competent authority immediately of any incident and there was no entry in *Rojnamchasanha*, but petitioner has been implicated in false and fabricated case with inordinate delay of about 11 months of alleged incident. Even from perusal of First Information Report (Annexure P/5) would show that First Information Report was registered only for offences defined under Sections 186, 353 and 294 of IPC. Petitioner made several complaints to authorities, but no action whatsoever has been taken against erring Police official in pursuance to complaint (Annexure P/2), which was lodged on 30.04.2019

immediately after the incident at about 11.20 AM. He pointed out that when any cognizable offence is brought to the notice of Police, then it is the duty of Police to register First Information Report as held by Hon'ble Supreme Court in case of **Lalita Kumari v. Government of Uttar Pradesh and Others** reported in **(2014) 2 SCC 1**. There was no allegation of offence under Atrocity Act on the date of incident by complainant in First Information Report (Annexure P/5) and only with an intention to implicate the petitioner in a graver offence, a false crime was registered with inordinate delay. Petitioner was not involved in any manner in alleged commission of crime, but to save skin of his own on the complaint made by petitioner, respondent No.3 levelled false allegation. It is contended that in the facts of the case, First Information Report registered against the petitioner be quashed.

4. Per contra, Shri Sudeep Verma, learned Deputy Government Advocate representing the State, opposing the submissions of learned counsel for the petitioner, would submit that petitioner in paragraph 8.7 of writ petition has pleaded that he filed application for grant of anticipatory bail. The said anticipatory bail application was dismissed as withdrawn with a direction to consider and decide the application for grant of regular bail on same day in accordance with law vide order dated 11.08.2021. There was no delay in lodging

complaint of incident dated 30.04.2019. From the documents placed on record in writ petition, it would be evident that respondent No.3 immediately after the incident made complaint to Deputy Superintendent of Police (Traffic) on same day i.e. 30.04.2019, which is placed on record along with writ petition at page No.67. Complaint was directed to be inquired as appearing from endorsement of Deputy Superintendent of Police (Traffic) under his signature. In the complaint dated 30.04.2019 (date of incident), there are specific allegations of committing an offence as alleged. Police after inquiry of complaint of respondent No.3 registered First Information Report vide Annexure P/5. Complaint was forwarded by Deputy Superintendent of Police (Traffic) to Superintendent of Police, Raigarh vide letter dated 21.06.2019 as appearing from documents at page No.62 of writ petition. It is contended that genuineness of complaint cannot be questioned by petitioner in view of material collected by Investigating Agency, which is after upon inquiry on the complaint by recording statement of witnesses. In statement of witnesses available in case diary, it has come that incident as mentioned in First Information Report lodged against the petitioner has occurred. It is the petitioner who was aggressor, obstructed and deter the police person in discharge of official duty. When respondent No.3 took action petitioner has taken law in his own hands.

Investigation is in progress and final report/charge-sheet is yet to be filed.

5. I have heard learned counsel appearing for the respective parties and perused the documents available on record in this writ petition.
6. So far as the submission made by learned senior counsel with regard to delay in registration of First Information Report is concerned, perusal of record would show that petitioner made complaint before Deputy Superintendent of Police (Traffic), Raigarh on 30.04.2019 itself, which is date of incident. Complaint of respondent No.3 dated 30.04.2019 was received on same day as appearing from seal and sign of authority to whom, it is addressed. It also show that on the same day, both the parties have made complaints before the same authority. Deputy Superintendent of Police (Traffic) made endorsement for inquiry on the complaint of respondent No.3. Merely because, there was some delay in recording First Information Report in itself will not be a ground to presume the complaint to be false and frivolous. For grant of relief of quashment of First Information Report entire facts and circumstances of the case is to be taken into consideration. Documents placed along with the writ petition by the petitioner would show that respondent No.3 has lodged complaint on same day before the superior Police official i.e. Deputy Superintendent of Police (Traffic),

Raigarh, it was received by the office of Deputy Superintendent of Police (Traffic) and the officer made an endorsement of conducting inquiry on the complaint. In view of the above undisputed facts, submission made by learned senior counsel for the petitioner that no report was lodged on the alleged date of incident and there was delay in lodging of First Information Report, cannot be accepted at this stage, in a petition seeking relief for quashment of First Information Report when the crime is under investigation.

7. The law with regard to quashment of First Information Report is well settled that First Information Report/criminal proceeding is to be quashed only for exceptional reasons and not in a routine manner. Hon'ble Supreme Court in case of **State of Haryana and Others v. Bhajan Lal and Others** reported in **1992 Supp (1) SCC 335** while considering the inherent powers under Section 482 of CrPC of the High Court has held thus :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the

following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

103. We also give a note of caution to the effect that the power of quashing a

criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

8. Recently, in case of **Amish Devgan v. Union of India and Others** reported in **(2021) 1 SCC 1** Hon'ble Supreme Court has held that quashing of First Information Report can only be in exceptional circumstances and some of the exceptional circumstances are held to be where manifestly there is some legal bar against institution or continuation of prosecution; where allegations made even if taken at face value 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.
9. If the facts of present case are tested on touchstone of principles laid down by Hon'ble Supreme Court in aforementioned rulings, particularly, in view of document placed on record in the writ petition at page No.67 i.e.

complaint of respondent No.3 before Deputy Superintendent of Police (Traffic), Raigarh dated 30.04.2019, on which, Deputy Superintendent of Police (Traffic) made endorsement on the same day for inquiry on the complaint, statement of witnesses, I am of the view that petitioner could not able to make out a strong case for quashment of First Information Report No.0261 of 2020 by Police Station City Kotwali, District Raigarh, Chhattisgarh.

10. For the foregoing reasons, this writ petition being sans merit is liable to be dismissed and it is hereby dismissed. However, it is made clear that observations made by this Court in this order are only with respect to reliefs as sought by petitioner in this petition only.

Sd/-  
**(Parth Prateem Sahu)**  
**Judge**