

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1084 of 2021**

- Smt. Akanksha Pandey W/o Late Bhupendra Pandey, aged about 41 years, UID 384169571486, R/o Sai Anandam, Usalapur, Bilaspur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, through its Principal Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Nava Raipur, Sector-19/Rakhi, Atal Nagar, Raipur, Tahsil & District Raipur, Chhattisgarh 492101.
2. Superintendent of Police Raipur, Raipur Tahsil & District Raipur, Chhattisgarh 492101.
3. Station House Officer Saraswati Nagar Police Station, Raipur Raipur Tahsil & District Raipur, Chhattisgarh 492101.
4. Pradeep Sharma (Complainant) Through SHO, Sarswati Nagar Police Station, Raipur Chhattisgarh 492001.
5. Goutam Chand Gavel, Inspector of Police Through The Additional Director General of Police (Administration), Police Head Quarters, Raipur Chhattisgarh 492001.

---- Respondents

For Petitioner	:	Mr. Raj Kamal Singh, Advocate
For Respondent No.1 to 3	:	Mr. Sudeep Verma, Deputy Government Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****18/10/2021**

1. Petitioner has filed this petition under Section 482 of Code of Criminal Procedure, 1973 mainly seeking quashment of FIR No.114/2021 on the grounds mentioned therein.
2. Facts relevant for disposal of this petition are that complainant Pradeep Sharma lodged report stating therein that he is an advocate by profession and practising on income tax & sales tax side. Petitioner and her husband Late Bhupendra Pandey were his clients and being so, they were known to him.

Petitioner and her husband were working as 'agent' of Post Office and engaged in work of collection of money and making deposits from their clients in different schemes of Postal Department like Recurring Deposit (RD), Term Deposit (TD), Monthly Income Scheme (MIS) etc. Petitioner and her husband introduced certain schemes of Postal Department to complainant and his other family members and stated that investments made in postal schemes will fetch huge profit. Based on convincing efforts made by petitioner and her husband, complainant and others have made deposits of Rs.21,00,000/-; Rs.18,40,000/-; Rs.28,70,000/-; Rs.28,00,000/-; Rs.46,90,000/-; Rs.27,90,000/-; Rs.8,50,000/-; Rs.30,00,000/- etc. in different schemes of postal department. After such deposits, petitioner and her husband handed over pass-books with seal and signature. Upon verifying status of accounts in concerned post office based on pass books issued by petitioner and her husband, it was informed that entries made in pass-books are forged. After getting information from Post Office, written complaint was made to concerned police station. Based on written report, Crime No.114/2021 is registered against petitioner and her husband.

3. Mr. Raj Kamal Singh, learned counsel for petitioner would submit that on receipt of notice dated 30.6.2021 from concerned police station, petitioner immediately submitted her reply narrating entire facts and showing her unawareness about allegations levelled against her. Petitioner is not involved in any manner in alleged commission of offence.

Petitioner in her capacity as 'agent' of Postal Department never accepted any amount from complainant or his relatives towards deposit in any of schemes of Postal Department nor issued any pass-book as alleged. Petitioner's husband died unnatural death on 4.4.2021; after coming to know about unnatural death of petitioner's husband, complainant lodged complaint in concerned police station against petitioner's husband also, as is evident from written complaint dated 9.4.2021 itself; despite aforesaid fact, the police registered offence against petitioner's husband which itself shows that police while conducting investigation is biased. There is no allegation against petitioner in FIR and entire allegations are against husband of petitioner only. Referring to decision of Hon'ble Supreme Court in **Lalita Kumari vs. Govt. of UP & others** reported in **(2014) 2 SCC 1**, it is argued that as there is delay in lodging FIR against petitioner, therefore, on this ground alone, FIR registered against petitioner is liable to be quashed. There is no material available to substantiate allegations levelled against petitioner. Hence, continuation of criminal proceedings against petitioner based on FIR No.114/21 will be abuse of process of law.

4. Mr. Sudeep Verma, learned Dy. Government Advocate for the State opposes the submissions made by learned counsel for petitioner and submits that in written complaint serious allegations are levelled not only against petitioner's husband but against her also. It is specifically mentioned in written complaint that petitioner is also working as an agent of Postal

Department for collecting and depositing amount under different schemes of Postal Department. There is no delay in lodging FIR. Referring to Annexure P-8 at Page No.52 of petition, it is submitted by learned State Counsel that Additional Superintendent of Post Office, Raipur Division, Raipur vide letter dated 8.9.2021 informed petitioner that department has received 22 complaints out of which some are with respect to recurring deposit accounts issued through her agent ID. He submits that in light of letter Annexure P-8 it cannot be said that there is no *prima facie* involvement of petitioner in commission of offence, as alleged in FIR No.114/21.

5. I have heard learned counsel for parties.
6. A bare perusal of complaint and FIR would show that petitioner is working as an agent of Postal Department. In reply to notice issued by the Station House Officer, Police Station Saraswati Nagar, Raipur, petitioner admitted that she has also been made agent of postal department by her husband. Letter Annexure P-8 would show that out of total 22 complaints received against petitioner's husband, some are in respect of recurring deposit accounts opened through agent ID of petitioner. The law with regard to quashment of FIR is well settled that FIR is to be quashed only for exceptional reasons and not in a routine manner. Hon'ble Supreme Court in case of **State of Haryana vs. Bhajanlal** reported in (1992) Suppl. (1) SCC 335 has categorized some of the cases

wherein inherent power under Section 482 of CrPC can be exercised to prevent abuse of process of Court or to secure ends of justice, which reads as under:-

“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."

7. Recently in case of **Amish Devgan vs. Union of India** reported in **(2021) 1 SCC 1** Hon'ble Supreme Court has held that quashing of FIR 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.

8. If facts of present case are tested on touchstone of principles laid down by Hon'ble Supreme Court in afore-mentioned rulings, the conclusion which comes out is that petitioner has not been able to make out a case for quashing of FIR registered against her under Crime No.114/2021 by Police Station Saraswati Nagar, Raipur.
9. For the foregoing reasons, this 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 claimed by petitioner in this petition only.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-