

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 578 of 2017**

1. Shankar Agarwal, S/o Shri Harphool Agarwal, aged about 56 years.
2. Ashish Agarwal, S/o Shankar Agarwal, aged 28 years, both are R/o Chandrakhuri, Baithalpur, Police Outpost : Sargaon, P.S. Pathariya, Tahsil District Mungeli (C.G.)

---- Petitioners**Versus**

1. Kaushilya W/o Somchand, aged 45 years
2. Somchand, S/o Mahettar Satnami, aged about 50 years, both are R/o Chandrakhuri, Baithalpur, Police Outpost : Sargaon, P.S. Pathariya, Tahsil District Mungeli (C.G.)

---- Respondents

For Petitioners	:	Mr. Pallav Mishra, Advocate.
For Respondents	:	Mr. Anand Shukla, Advocate.

Hon'ble Smt Justice Rajani Dubey**Order on Board****29/11/2021**

Heard.

01. The petitioners have filed this petition under 482 of Cr.P.C. for quashment of Criminal Case No.42/2016 filed under Section 200 of Cr.P.C. by the respondents whereby the complaint was lodged against the petitioners before the Court of Special Judge (Atrocity), Bilaspur.

02. Brief facts of the case are that a complaint case was filed by respondents against the petitioner No.1 herein, his wife and son (petitioner No.2 herein) for the offence punishable under Sections 294, 506, 323, 325, 354, 120-B IPC, Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act and Sections 3 & 5 of Chhattisgarh Tohni Pratadana Nivaran Adhiniyam, 2005, with the averments that the petitioner No.2, who is son of petitioner No.1, under the influence of liquor used filthy language and assaulted respondents and the petitioners have also

uttered caste remark against the respondents. On 29.09.2016, the learned Court below, after considering the evidence and having been found sufficient material, registered the complaint case against the petitioners herein, whereas complaint case with respect to wife of petitioner No.1 was dismissed. Feeling aggrieved with the complaint case filed under Section 200 Cr.P.C. by the respondents, the petitioners have filed the instant CRMP for quashment of criminal case.

03. Learned counsel for the petitioners would submit that the learned Court below, without examining the evidence, registered the case against the petitioner in illegal and arbitrary manner. He would further submit that the respondents did not file caste certificate to establish the fact that they belong to scheduled caste, therefore, no case under SC/ST act is made out. Further submission is that so far as injuries are concerned, the respondents have also not filed medical report and, as such, the allegation of assault is also baseless. It has been contended that the entire matter was investigated by the police, who did not find any criminal case and all the efforts are being made just to target the petitioners. He would also submit that there is inordinate delay in filing the complaint and the said delay has not been explained by the respondent properly. There is no substantial material available in the complaint which shows that prima-facie case is made out against the petitioner.

04. Per contra, learned counsel for respondents submits that there are sufficient substantial material available on record and on the basis of which, the learned Court below registered the complaint and framed charges against the petitioners. Therefore, the instant CRMP deserves to be dismissed.

05. Heard learned counsel for the parties and perused the material available on record.

06. Both the petitioners and respondents have filed various documents pertaining to the complaint case. The learned Court below after having recorded the statements of complainant and other witnesses under Section 200 Cr.P.C, registered the complaint

case on 29.09.2016 against the petitioners under Sections 294, 324 and Section 3(1)(10) of the SC/ST Act. Further, the learned Court below, in absence of any incriminating and substantial evidence, dismissed the complaint with respect to one accused Meena Agrawal, wife of the petitioner No.1.

07. It is well settled principle of law for quashing of complaint or FIR, the Court when it exercises the power under Section 482 Cr.P.C., it only has to consider whether or not the allegations in the FIR/complaint disclose the commission of cognizable offence and, at this stage, it is not required to consider the merits of the case. The learned Court below after having been found sufficient substantial material available in the complaint, registered the case against the petitioners herein. As stated by the parties that the charges have already been framed against the petitioners, therefore, this is not a case where interference by this Court is called for.

08. In view of aforesaid, the petition filed by the petitioners being devoid of merit is liable to be, and is hereby dismissed at the admission stage.

Sd/-

(Rajani Dubey)
Judge

Pekde