

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WPCR No. 697 of 2021

Nitesh Verma S/o Smt. Usha Kiran Verma, Aged About 32 Years, R/o Door No.4, Harsha Apartments, Deivasigamani Cross Street, Pallikaranai, Behind Lotus Pond, Chennai, Tamil Nadu- 600100.

---- **Petitioner**

Versus

1. State of Chhattisgarh Through The Station House Officer, Police Station Darri, District Korba, (Chhattisgarh).
2. Smt. Sakshi Verma W/o Shri Nitesh Verma, Aged About 29 Years, R/o D/105, HTPC, Ketu Vihar, Jamnipali, Ward No.36, P.S. Darri, District Korba, (Chhattisgarh).

--- **Respondent**

For Petitioner	: Mr. TK Chandra, Advocate.
For State/Respondent No.1.	: Mr. Guru I Sharna, GA.
For Respondent No.2.	: None.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

28/10/2021

Heard.

1. Petitioner has filed this writ petition under Article 226 of the Constitution of India seeking quashment of FIR dated 03.03.2021 (Annexure P/1).
2. Learned counsel for petitioner submits that on 03.03.21 respondent No.2, who is wife of petitioner, has lodged false and frivolous complaint in respect of incident which was allegedly taken place on 16.07.20. Based upon which, FIR under Sections 294, 323 & 506 of IPC is registered against petitioner. There is inordinate delay in lodging FIR. On the date of alleged incident, petitioner was not present at the place of incident or in city of Korba itself, but he was in Raipur. Furthermore, alleged incident is of 16.07.2020 and during that period, petitioner was taking medical treatment in Raipur. He also received messages on his mobile phone asking about his health. Petitioner cannot be harassed by undergoing entire trial of a false and baseless complaint. Complaint has been lodged by respondent No.1/wife only to pressurize and harass the petitioner.

Hence, FIR registered against him be quashed.

3. Learned State Counsel opposes the submissions made by learned counsel for petitioner and submits that there are specific allegations in FIR that petitioner has assaulted his wife ie complainant, in the house of her parents. In FIR name of independent eye-witnesses, who are stated to be neighbourers have also been mentioned. Hence, in view of independent eye-witness, as shown in FIR, plea of alibi could not be decided in writ petition. Grounds raised by petitioner in writ petition can be good defence for him, but the same can be decided after trial where petitioner will get an opportunity of cross-examining the witnesses.
4. Heard learned counsel for the parties.
5. Considering the entire facts and circumstances of this case, nature of grounds raised by petitioner in writ petition for seeking relief of quashing of FIR ie plea of 'alibi', which could not be appreciated and decided in writ jurisdiction, more so, when in FIR independent witnesses have been named, to have seen the incident of alleged assault by petitioner to respondent No.2.
6. 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 Cr.P.C 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 him bearing Crime No.0051/2021 by Police Station Darri, Korba.

9. For the foregoing reasons, this petition being sans merit is liable to be dismissed and it is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-