

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

CRMP No. 1172 of 2021

1. K.Kamal Rao (as per FIR) Kamal Kayarwar (Actual Name)S/o Shri K. Ashok Rao, Aged About 35 Years R/o K. Ashok Tailor, Opposite-State Bank Of India, Main Road, Sarkanda, P.S. Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. K. Ashok Rao(As Per FIR), K. Ashok (Actual Name)S/o Late Shri K. Laxman, Aged About 70 Years R/o. K. Ashok Tailor, Opposite State Bank Of India, Main Road, Sarkanda, P.S. Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
3. K. Nirmala Rao (As Per FIR) Nirmala Kayarwar (Actual Name)W/o K. Ashok Rao, Aged About 65 Years (age wrongly mentioned in FIR) R/o. K. Ashok Tailor, Opposite State Bank Of India, Main Road, Sarkanda, P.S. Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. K. Sanjay Rao (As Per FIR) K. Sanjay (Actual Name) S/o Shri K. Ashok Rao, Aged About 38 Years (age wrongly mentioned in FIR) R/o. K. Ashok Tailor, Opposite State Bank Of India, Main Road, Sarkanda, P.S. Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

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Versus

1. State Of Chhattisgarh Through The Incharge Of Police Station Mahila Thana, Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. K. Shrilata, D/o K.V. Sitaram, Aged About 31 Years R/o Panchali Vihar, Behind Shani Mandir, Rajkishore Nagar, P.S. Sarkanda, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

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For Petitioners	:	Shri Pallav Mishra, Advocate
For State	:	Shri Aditya Tiwari, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order

08/11/2021

1. The petitioners have filed this petition seeking quashment of final report lodged under Crime No.43 of 2021 registered at Police Station -Mahila Thana, Bilaspur on the basis of written complaint lodged by respondent No.2 alleging commission of offence under Section 498-A, 34 of IPC.
2. Learned counsel for the petitioners submits that the petitioner No.1 got married with respondent No.2 on 27.11.2017. Thereafter, petitioner No.1 and respondent No.2 went to their respective places i.e. Bengluru and Hyderabad to continue with their job. The allegation of transferring money by respondent No.2/wife in the bank account of petitioner No.1/husband, on his demand, is absolutely false and baseless which is not appearing from the statement of bank account of petitioner No.1. Instead, the bank account statement of petitioner No.1 would show that it is petitioner No.1 who transferred amount from his bank account to bank account of respondent No.2, which shows prima facie allegation levelled against the petitioners of payment of money is absolutely false and baseless. He further submits that there was no demand of dowry and even the police has not found the said allegation to be correct. Hence no offence is registered against the petitioner for commission of offence under the Dowry Prohibition Act. Even in reconciliation proceedings, there is no specific allegation against the petitioners with regard to demand of dowry. Hence the FIR may be quashed.
3. Learned counsel for the State opposing submissions made by learned counsel for the petitioners would submit that specific allegations have been levelled in the complaint as appearing from FIR that the petitioners have abused, harassed and ill-

treated respondent No.2 for demand of dowry.

4. I have heard learned counsel for the parties and also perused the pleadings and documents placed on record along with the petition.
5. The contents of written report based upon which FIR is registered would show that allegation of demand of dowry, ill-treatment has been levelled by respondent No.2 against the petitioners. The correctness of the allegation cannot be gone into or decided in the writ jurisdiction. It is for the Court of competent jurisdiction to consider and decide whether the allegation levelled in the FIR by complainant against accused persons are correct or not based on the evidence brought on record by the prosecution witnesses.
6. Quashment of FIR or criminal proceedings is only for exceptional reasons and not in a routine manner. The law with regard to quashment of FIR is well settled by 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 jurisdiction 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 aforementioned rulings, I do not find any merits in the submissions made by learned counsel for the petitioners seeking relief of quashment of FIR registered against them in Crime No.43 of 2021 by Police Station- Mahila Thana, Bilaspur.
9. The petition is therefore liable to be dismissed and it is hereby dismissed.

Sd/-
(Parth Prateem Sahu)
Judge