

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**CRMP No. 1199 of 2021**

- Kishor Kumar Meshram S/o Late Shri Kamal Kumar Meshram aged about 42 Years R/o House No. H-16, GAD Colony, Narayanpur, Permanent Address Bakhrupara, District Narayanpur, Chhattisgarh.

-----Petitioner

VERSUS

1. State of Chhattisgarh Through Additional Superintendent of Police, Anti Corruption Bureau, Jagdalpur, Chhattisgarh.
2. Police Station State Economic Crime Investigation and Anti Corruption Bureau Raipur, District Raipur, Unit Jagdalpur, Chhattisgarh.
3. Shri Aashish Kumar Verma S/o Late Shri Firturam Verma aged about 32 Years R/o Bakhrupara, District Narayanpur Chhattisgarh.

-----Respondents

For Petitioner : Mr. Love Kumar Ramteke, Advocate
 For Respondent-State : Mr. D.P. Singh, Dy. Adv. Gen.

SB: Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****11/11/2021**

1. This petition has been filed seeking following relief:

“It is therefore prayed that this Hon'ble Court may kindly be pleased to quash of the FIR No. 03/2021 dated 05/01/2021 (As per Page No. 45 Annexure A4) and stop or cancelled the proceedings Annexure A-1 against the applicants. That the application/ petition to be heard at the inherent powers under Section 482 of CrPC in the interest of justice”

2. Learned counsel for petitioner submits that police registered FIR without there being any convincing material collected by investigating agency. There was no occasion for petitioner to make demand of alleged bribe from complainant. No application

or proceeding was pending before him. Even from the alleged conversation said to be recorded in voice recorder, it does not reflect that petitioner has made demand of bribe as alleged against him, hence, no case is made out and therefore FIR be quashed. It is also argued that Respondents 1 & 2 had not applied their mind nor checked the documents properly which were collected by them during the course of enquiry.

3. Mr. D.P. Singh, learned State counsel opposes the submissions made by learned counsel for petitioner and would submit that on receiving complaint, complainant was given a voice recorder. He was given instructions of recording, conversation of demand of alleged bribe is recorded in the voice recorder. From the *panch* witnesses and the documents placed on record along with petition (transcription of recording) prima facie offence as alleged against petitioner is made out. He submits that quashment of FIR or criminal proceeding is on exceptional reasons only and not in routine manner, hence, no such facts or submissions have been brought on record by petitioner to quash FIR, thus, petition is devoid of merits is to be dismissed.
4. I have heard learned counsel for respective parties and perused the records where entire charge-sheet has been placed on record by petitioner.
5. The proceedings would show that on receiving the complaint of demand by Anti-Corruption Bureau, complainant was handed over the voice recorder and after the alleged offence, recorder was returned back to investigating agency. Transcript of voice recording is available at page 60 of the petition. 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.”

6. 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.

7. Considering the aforementioned rulings of Hon'ble Supreme Court as well as the documents placed on record, I do not find any merit in the submissions made by learned counsel for petitioner for relief of quashment of FIR.
8. Writ petition being sans merit is liable to be and is hereby dismissed accordingly.

Sd/-
(Parth Prateem Sahu)
Judge