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2024:CGHC:47265

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 2615 of 2019

1. Jagjit Singh Saluja S/o Late Shri Pratap Singh Saluja Aged About 49 Years R/o Hatri Bazar, Bhatapara, District - Baloda Bazar – Bhatapara, Chhattisgarh.
2. Raja Saluja S/o Late Shri Pratap Singh Saluja Aged About 33 Years R/o Balbhadra Ward, Bhatapara, Police Station Bhatapara, District - Baloda Bazar – Bhatapara, Chhattisgarh.
3. Satyajit Saluja S/o Late Shri Pratap Singh Saluja Aged About 39 Years R/o Balbhadra Ward, Bhatapara, Police Station Bhatapara, District - Baloda Bazar – Bhatapara, Chhattisgarh.
4. Jagpreet Saluja S/o Late Shri Pratap Singh Saluja Aged About 44 Years R/o Hatri Bazar, Bhatapara, District - Baloda Bazar – Bhatapara, Chhattisgarh.

---- **Petitioners**

versus

1. State of Chhattisgarh Through Police Station Bhatapara City, District Baloda Bazar Bhatapara, Chhattisgarh.
2. Smt. Ramrajji Chhabda, W/o Late Shri Sharan Singh Chhabda, R/o Village Kharora, District - Raipur Chhattisgarh.

---- Respondents

CRMP No. 2616 of 2019

1. Jagjit Singh Saluja S/o Late Shri Pratap Singh Saluja Aged About 49 Years R/o Hatri Bazar, Bhatapara, District Baloda Bazar Bhatapara, Chhattisgarh.
2. Raja Saluja S/o Late Shri Pratap Singh Saluja Aged About 33 Years R/o Balbhadra Ward, Bhatapara, Police Station Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.
3. Satyajit Saluja S/o Late Shri Pratap Singh Saluja Aged About 39 Years R/o Balbhadra Ward, Bhatapara, Police Station Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh.

----Petitioners

Versus

1. State of Chhattisgarh Through Police Station Bhatapara City, District Baloda Bazar Bhatapara Chhattisgarh.
2. Smt. Ramrajji Chhabda W/o Late Shri Sharan Singh Chhabda R/o Village Kharora, District Raipur Chhattisgarh.

---- Respondents

CRMP No. 1041 of 2022

1. Raja Saluja S/o Late Shri Pratap Singh Saluja Aged About 35 Years R/o Balbhadra Ward, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.
2. Satyajeet Singh S/o Late Shri Pratap Singh Saluja Aged About 42 Years R/o Balbhadra Ward, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.
3. Jagjit Singh Saluja S/o Late Pratap Singh Aged About 51 Years R/o Hatri Bazar, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.
4. Jagpreet Saluja S/o Late Shri Pratap Singh Saluja Aged About 49 Years R/o Hatri Bazar, Bhatapara, District Balodabazar-Bhatapara, Chhattisgarh.

----Petitioners

Versus

1. State of Chhattisgarh through Police Station Suhela, District Balodabazar-Bhatapara, Chhattisgarh.
2. Smt. Ramrajji Chhabda W/o Late Shri Sharan Singh Chhabda R/o Village Kharora, District Raipur, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Manoj Paranjpe, Advocate.
For Respondent-	:	Mr. Shashank Thakur, Dy. A.G.

State		
For Respondent No. 2	:	Mr. Sumesh Bajaj, Advocate.

Hon'ble Mr. Ramesh Sinha, Chief Justice
Hon'ble Mr. Amitendra Kishore Prasad, Judge

Order on Board

***Per* Ramesh Sinha Chief Justice**

02/12/2024

1. Heard Mr. Manoj Paranjape, learned Advocate appearing for the petitioners, Mr. Shashank Thakur, Deputy A.G. for the State & Mr. Sumesh Bajaj, learned Advocate appearing for respondent No. 2.
2. Since common questions of law and facts are involved in all the petitions, they were clubbed and heard together and are being **disposed of** by this common order.
3. In CRMP No. 2615/2019, the petitioners have prayed for following reliefs:-

> *"1. It is respectfully prayed before this Hon'ble Court that the First Information Report bearing Crime No. 286/2018, registered at Police Station Bhatapara, District-Baloda Bazar-Bhatapara may kindly be quashed.*
>
> *2. Any other relief/relief's which this Hon'ble Court may thing fit and proper in the facts and circumstances of the case with cost of the petition*

may also pleased be granted to the petitioner".

4. In CRMP No. 2616/2019, the petitioners have prayed for following reliefs:-

"1. It is respectfully prayed before this Hon'ble Court that the First Information Report bearing Crime No. 285/2018, registered at Police Station Bhatapara City, District-Baloda Bazar-Bhatapara may kindly be quashed.

2. Any other relief/relief's which this Hon'ble Court may thing fit and proper in the facts and circumstances of the case with cost of the petition may also pleased be granted to the petitioner".

5. In CRMP No. 1041/2022, the petitioners have prayed for following reliefs:-

"It is therefore, most humbly prayed that the Hon'ble Court may kindly be pleased to allow the instant 482 petition filed by the petitioners and the order dated 24.12.2019 (Annex.P/1), passed by Judicial Magistrate First Class, Simga, District Baloda Bazar-Bhatapara, passed in Unregistered MJC No. 2018 in the matter of State of Chhattisgarh through Police Station Suhela vs. Unknown, may kindly be set-aside and the action on the part of the police authorities,

whereby the police authorities have started reinvestigation of the entire crime No. 23/2008, may also kindly be set-aside, in holding the same as without jurisdiction and the Hon'ble Court may kindly be pleased to direct the Judicial Magistrate First Class, Simga to pass the detailed order on merit, on the closure report submitted by the police and the Hon'ble Court may further be pleased to grant any other relief which is deemed fit and proper".

6. Brief facts of the case, is that, the respondent No.2/complainant has lodged the FIR on 12.03.2008 in respect of the incident alleged to have been occurred on 26.06.2007 against the petitioners for the offences punishable under Section 419, 420, 467, 468, 471, 120B of Indian Penal Code. Thereafter, the police authorities have investigated the matter and recorded the statement of the witnesses and thereafter submitted closure report before the Judicial Magistrate, Simga, Baloda Bazar on 26.07.2014. On 11.08.2014 the MJC was registered and notice was issued to the complainant. On 20.10.2016, it transpires from the order sheet, that, the case dairy was called for and matter was posted on 08.02.2017. It is apparent on the face of the entire order sheet, that after 20.10.2016 till 27.04.2022 there was no order sheet. It is relevant to mention at this juncture that, on

13.06.2022 the Incharge of Police Station Suhela issued a notice to Satyajeet Singh under Section 160 of Code of Criminal Procedure for recording of the statement. As soon as, one of the petitioner has received the said notice he made an application under the Right to Information Act seeking an information with regard to the final outcome of M.JC No. 75/2014. Subsequently, the petitioners moved an application before Judicial Magistrate First Class for obtaining the entire order sheets to ascertain the final outcome of MJC No. 75/2014. The entire order sheets till 27.04.2022 was supplied to the petitioners. On 26.05.2022 the counsel for the complainant moved an application before the Magistrate and in the said application he has disclosed that, the closure has already been refused and the order of reinvestigation has been passed. The Magistrate vide order dated 16.06.2022 has closed the case recording the findings that, closure has already been refused and the request of the police for reinvestigation of the entire matter has already been completed. The case diary has already been returned to the police. When the copies of unregistered MJC were supplied to the accused persons, they were surprised to know that, separate MJC **(*State of Chhattisgarh v. Unknown)*** was registered on 30.10.2018 and in the said unregistered MJC on 24.12.2019 the main impugned order has been passed. The Incharge of Police Station Suhela

has requested the Judicial Magistrate First Class vide its demi-official-letter dated 06.12.2019 for return of the case dairy of Crime No. 23/2008 and in the said letter the incharge of Police Station Suhela has requested the magistrate that the complainant has requested for reinvestigation of the entire matter after obtaining the entire case dairy, therefore for reinvestigation of Crime No. 23/2008, the entire diary would be required. On the basis of the said letter the Magistrate instead of accepting or refusing to accept the closer report bearing No. 19/2009 and has accepted the request of Incharge of Police Station and entire case dairy has been returned to Police Station. The order dated 24.12.2019 cannot be treated to be an order passed by the Magistrate for reinvestigation, specially in a situation when the closure has not been refused.

7. Learned counsel for the petitioners has submitted that the complainant executed power of attorney in favour of accused Jagjeet Singh on 05.08.1994 which was notarized. He further submits that the complainant also made a complaint dated 29.06.2007 before Sub Registrar whereby she has stated that she never appointed Jagjeet Singh as attorney. Now, she claims that the said power of attorney was cancelled on 08.05.2007. He further submits that the complainant and the petitioners are close relatives and the complainant has lodged complaint against the

applicant and co-accused persons in the past also on similar allegations, failing in the said attempt complaint is trying yet again to develop a false case against the applicant. He further submits that subsequently to the report of the complainant an FIR vide crime no. 23/2008 under Sections 419, 420, 467, 468, 471, 120-B was registered at Suhela Police Station against the accused persons. He further submits that on a complaint which was registered with Crime No.23/2008, the investigation was carried out by the concerning police station and the closure report was filed before the Competent Court. After filing of the closure report, the complainant was noticed by the Competent Court and the complainant had appeared before the Court of learned Judicial Magistrate First Class and got her statement recorded.

8. On the other hand learned counsel for the State-respondent and respondent No. 2 have opposed the submissions made by the petitioners and has submitted that no case is made out for quashing of FIR and criminal proceedings. Till date no counter affidavit/ return has been filed by the respondent No. 2.

9. We have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumscription.

10. The Supreme Court in the matter of ***State of Haryana and***

others v. Bhajan Lal and others*, *1992 Supp (1) SCC 335 laid down the principles of law relating to the exercise of extraordinary power under Article 226 of the Constitution of India to quash the first information report and it has been held that such power can be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. In paragraph 102 of the report, their Lordships laid down the broad principles where such power under Article 226 of the Constitution/Section 482 of the CrPC should be exercised, which are 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 concerned Act (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 concerned Act, 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.
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> 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."

11. The Supreme Court in the matter of ***Manoj Kumar Sharma and others v. State of Chhattisgarh and others***, ***(2016) 9 SCC 1*** held as under:-

> "35. While discussing the scope and ambit of Section 482 of the Code, a similar view has been taken by a Division Bench of this Court in Rajiv Thapar and others vs. Madan Kal Kapoor (2013) 3 SCC 330 wherein it was held as under:-
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> > "29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges.

These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence

should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual

assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5 If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising t therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

12. In the matter of ***Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673***, the Supreme Court recognized that although

the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. It was held as under:

> "12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."

(emphasis supplied)

13. Relying upon the decision in **Paramjeet Batra** (supra), the Supreme Court in **Randheer Singh v. State of U.P., (2021) 14 SCC 626**, observed that criminal proceedings cannot be taken recourse to as a weapon of harassment. In **Usha Chakraborty &**

Anr. v. State of West Bengal & Anr., 2023 SCC OnLine SC 90, relying upon **Paramjeet Batra** (supra) it was again held that where a dispute which is essentially of a civil nature, is given a cloak of a criminal offence, then such disputes can be quashed, by exercising the inherent powers under Section 482 of the Code of Criminal Procedure.

14. In the present petitions, the complainant has lodged an FIR against the present petitioners alleging that the petitioners have fraudulently got executed the sale deeds in respect of different lands. The FIR bearing No. 23/2008 (CRMP No.1041/2022) was registered by Police Station Suhela in respect of all lands i.e. Aurethi, Farhada and Kholwa. Thereafter, FIR bearing No. 285/2018 (CRMP No.2616/2019) on the same allegations was lodged only in respect of the land situated at Village-Aurethi and the FIR bearing No. 286/2018 (CRMP No.2615/2019) on the same allegations at Police Station- Bhatapara City in respect of the land at Kholwa.

15. In view of above, considering that the closure report has already been filed and there is a family dispute in respect of above subject land, for which, civil suit is also pending before the competent Civil Court and instead of pursuing the civil remedy, the respondent No. 2 who is the close relative of the petitioners has lodged the impugned FIRs in the present petition which

appears to be a pressure tactics and with a malafide intention. Hence , the FIR bearing Nos. 285/2018 in CRMP No.2616/2019, 286/2018 in CRMP No.2615/2019 and 23/2008 in CRMP No.1041/2022 along with consequential criminal proceeding are hereby quashed.

16. Accordingly, the present petitions are **allowed**.

Sd/-	**Sd/-**
(Amitendra Kishore Prasad)	**(Ramesh Sinha)**
Judge	**Chief Justice**

Raghu Jat