

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 496 of 2018**

- Hemant Kathle S/o Shri Dharam Das Kathle, aged about 36 Years R/o Guna, Temri, P.S. Mungeli, District Mungeli Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through The Station House Officer, Police Station Jarhagaon, District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh
2. Annu Prajapati S/o Shri Chhote Lal Prajapati, aged about 30 years, R/o Village Padampur, Police Station- Jarhagaon, District Mungeli Chhattisgarh.

---- Respondents

(Cause title is taken from CIS Software)

For Petitioner	:	Mr. Dheerendra Pandey, Advocate
For Res. No.1/State	:	Mr. Nitansh Jaiswal, Panel Lawyer.
For Res. No.2	:	Mr. Mirza Hafiz Baig, Advocate.

Division Bench:**Hon'ble Shri Ramesh Sinha, Chief Justice****Hon'ble Smt. Rajani Dubey, Judge****Order on Board****Per Ramesh Sinha, Chief Justice****30.04.2024**

1. The petitioner has preferred the instant petition under Section 482 of Cr.P.C. for quashing Crime No. 212 of 2017 dated 24.09.2017 and quash final report dated 12.11.2017 and also quash the criminal proceedings pending before CJM, Mungeli as criminal case No. 1649/2017.
2. Brief facts of the case are that respondent No. 2 has lodged the written complaint against the petitioner at police Station-

Jarhagaon, District- Mungeli (C.G.) alleging therein that she is the resident of Village- Padampur and engaged in making soil pottery and soil bricks. It was alleged that the applicant purchased 84,000 bricks from her for construction of toilet and for the payment of the said bricks, an amount of Rs. 70,000/- in cash was given to her and for balance amount, a cheque amounting to Rs. 1,50,000/- was given by the applicant in the name of her father deposited the said cheque in his Bank account in Punjab National Bank, Branch- Barela, then he was reported by the bank that the said cheque is dishonored on account of insufficient balance in the account of the cheque issuing person and thereafter, she demanded her amount of Rs. 1,50,000/- but, the petitioner did not give the said amount to her and refused the payment of the said amount to her and thus, the petitioner has committed cheating with the complainant/respondent No.2. Thereafter, FIR has been registered by the police and after the investigation in the matter and arrested him by the police for offence under Section 420, 506 of IPC.

3. Learned counsel for the petitioner argued that it is the case of simply dishonour of cheque whereas the proceedings under Section 420, 506 of IPC have been initiated against the petitioner in pursuance to the FIR. Hence, the offence under Section 420, 506 of IPC is liable to be quashed.
4. Learned counsel for respondent No.2 and learned counsel for the State have opposed the prayer for quashing of charge-sheet and further submitted that no interim order was passed in the

present case and the trial is in progress.

5. We have heard learned counsel for the parties and perused the material available on record.
6. The legal position on the issue of quashing of criminal proceedings is well-settled that the jurisdiction to quash a complaint, FIR or a charge-sheet should be exercised sparingly and only in exceptional cases and Courts should not ordinarily interfere with the investigations of cognizable offences. However, where the allegations made in the FIR or the complaint even if 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, the FIR or the charge-sheet may be quashed in exercise of powers under Article 226 or inherent powers under Section 482 of the Cr.P.C.
7. In the well celebrated judgment reported in **AIR 1992 SC 605** **State of Haryana and others Vs. Ch. Bhajan Lal**, the Apex Court held that those guidelines should be exercised sparingly and that too in the rarest of rare cases. Guidelines are as follows:

“(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 to 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 156(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."

8. In case of **Rupan Deol Bajaj v. K.P.S. Gill**; reported in (1995) SCC (Cri) 1059, **Rajesh Bajaj v. State of NCT of Delhi**; reported in (1999) 3 SCC 259 and **Medchl Chemicals &**

Pharma (P) Ltd. v. Biological E Ltd. & Ors; reported in 2000 SCC (Cri) 615, the Apex Court clearly held that if a prima facie case is made out disclosing the ingredients of the offence, Court should not quash the complaint. However, it was held that if the allegations do not constitute any offence as alleged and appear to be patently absurd and improbable, Court should not hesitate to quash the complaint. The note of caution was reiterated that while considering such petitions the Courts should be very circumspect, conscious and careful. Thus, there is no controversy about the legal proposition that in case a prima facie case is made out, the FIR or the proceedings in consequence thereof cannot be quashed.

9. In **Neharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others** : 2021 SCC OnLine SC 315, the Apex Court has observed that the power of quashing should be exercised sparingly with circumspection in the rarest of rare cases. While examining an F.I.R./complaint, quashing of which is sought, the Court cannot inquire about the reliability, genuineness, or otherwise of the allegations made in the F.I.R./complaint. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the Court to be cautious. The Apex Court has emphasized that though the Court has the power to quash the F.I.R. in suitable cases, the Court, when it exercises power under Section 482 Cr.P.C., only has to consider whether or not the allegations of F.I.R. disclose the commission of a cognizable offence and is not required to consider the case on merit.
10. Keeping in view the aforesaid law and considering the

submissions by the learned Counsel for the parties, we are of the considered view it would not be proper to interfere in the present petition for quashing of proceedings.

11. As per respondent No. 2 and learned counsel for the State charge-sheet has been filed and trial is in progress against the petitioner and also in view of material on record, it can not be held that the impugned criminal proceedings are manifestly attended with mala fide and maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite them due to private and personal grudge. FIR or criminal proceedings can be quashed only in accordance with parameters laid down by Hon'ble Apex Court in catena of decisions.
12. In view of aforesaid, the petition lacks merit and thus, liable to be dismissed.
13. The CRMP is, accordingly, dismissed.

Sd/-

(Rajani Dubey)
JUDGE

Sd/-

(Ramesh Sinha)
CHIEF JUSTICE