

Kapoor Chand Sahu vs State Of Chhattisgarh on 3 January, 2025

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2025:CGHC:333

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 3406 of 2024

Kapoor Chand Sahu S/o Late Maharathi Sahu Aged About 47 Years
R/o Kera Road, In Front Of Girls College, Janjgir, Police Station-
Janjgir, District Janjgir-Champa, Chhattisgarh.

... Petitioner(s)

versus

State of Chhattisgarh Through The Station House Officer, Police
Station - Janjgir, District Janjgir-Champa, Chhattisgarh.

--- Respondents

For Petitioner : Mr. Parasmani Shrivastava, Advocate. For Respondent-State : Mr. Pramod Shrivastava,
Dy. GA Hon'ble Shri Justice Arvind Kumar Verma Order on Board 03/01/2025

1. With the consent of the parties, matter is heard finally.

2. This petition is filed under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 seeking quashment of entire criminal proceedings of criminal case No.1277/2024 pending before Court of CJM, Janjgir, Distt -Janjgir-Champa, (CG), which was arising out FIR No.689/2024.

3. Facts relevant for disposal of this case are that complainant has lodged report before the concerned Police Station stating that he is the Zonal Project Manager of Indus Tower Company. On 01.08.2024, the Company has started installation of Mobile Tower in the land of one Neharu Lal Sahu S/o Shri Bhagwat Prasad Sahu bearing Khasara No.2587/1 measuring area 35x35 square feet, after execution of an agreement with the Neharu Lal. On 04.08.2024, present petitioner came there tried to stop the work of installation and looted the articles/equipments. He abused the employees/labourers who were working there and also threatened to kill them. On 31.08.2024, when complainant and one Mayank went to the house of petitioner requesting to return those articles, applicant demanded one lakh rupees and also threatened to kill them by means of Axe. Based upon report, F.I.R was registered against the petitioner/accused in Crime No.689/2024. Thereafter charge sheet has been filed for offence under Sections 308 (5), 296, 351 (2), 115 (2), 309 (4) of Bhartiya Nyaya Sanhita 2023. Hence, this petition.

4. Learned counsel for the petitioner submits that it is an undisputed fact is that the Company has installing the tower in the land bearing Khasara No.2587 situated in front of Girls College, Janjgir, Bhatapara, District-Janjgir-Champa (C.G.), the petitioner and his brother and mother are the owner of said land as per documents Annexure A-3. The petitioner has right to protect his life as well as his property under the Right to Private Defence, therefore, cognizance taken by the concern prosecution authorities against the petitioner is illegal and bad in law. There is no evidence/material available on record which shows that the petitioner/accused has committed the alleged offence/crime and, therefore, the entire criminal proceedings is liable to be quashed/set- aside.

5. Learned State Counsel opposing submission of counsel for petitioner would submit that complainant has leveled specific allegations against the petitioner, hence, he is not entitled for relief sought for in this petition.

6. When Court pose specific query to learned counsel for petitioner with regard to stage of proceeding before the trial Court, he submits that charge sheet has been filed against the petitioner/accused.

7. Heard learned counsel for the parties and perused document placed on record.

8. Law with regard to quashment of FIR is well settled that FIR is to be quashed only for exceptional reasons and not in routine manner. Hon'ble Supreme Court in case 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 en-

grafted 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."

9. Further in case of *Amish Devgan vs. Union of India* reported in (2021) 1 SCC 1 Hon'ble Supreme 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.

10. Recently in case of *Central Bureau of Investigation versus Aryan Singh & Ors*, passed in CRA Nos.1025-1026 of 2023 on 10.04.2023, the Hon'ble Supreme Court has observed that while considering the petition for quashment of FIR Court should not conduct any trial to ascertain the correctness of allegation. Relevant paragraphs are held as under :-

"4.1. From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned Trial Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr.P.C., the Court is not required to conduct the mini trial. The High

Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution/investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution/investigating agency. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under Section 482 Cr.P.C., the Court has a very limited jurisdiction and is required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not"

11. Perusal of charge-sheet reveals that prima facie commission of alleged offence/crime is made out against the petitioner.

12. Considering facts of the case, submissions of counsel for the parties, contents of FIR, nature of allegations, statement of complainant recorded under Section 161 of Cr.P.C, further considering the decisions of Hon'ble Supreme Court in cases of Bhajanlal; Amish Devgan; & Central Bureau of Investigation (supra), I do not find present to be a fit case to grant the relief as prayed for by petitioner in this petition.

13. Accordingly, present petition is hereby dismissed. CC as per rules.

Sd/-

(Arvind Kumar Verma) Judge J/-