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**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SMT. JUSTICE ANJULI PALO  
ON THE 10<sup>th</sup> OF FEBRUARY, 2023  
MISC. CRIMINAL CASE No. 2556 of 2020**

**BETWEEN:-**

**KAMLESH TIWARI S/O VISHWANATH TIWARI, AGED  
ABOUT 43 YEARS, OCCUPATION: SELF EMPLOYED FLAT  
NO. B 106 KARMBHUMI APARTMENT CHENOD BALSAD  
VAPI GUJRAT (GUJARAT)**

**.....APPLICANT**

**(BY SHRI VIVEK AGRAWAL - ADVOCATE )**

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH  
POLICE STATION CYBER CELL BHOPAL BHOPAL  
(MADHYA PRADESH)**
- 2. RAJESH MEMAWAT S/O MANGILAL MEMAWAT,  
AGED ABOUT 37 YEARS, H.NO. 93 KESDA BAG  
WARD NO. 25 BARKHEDI PS BARKHEDI (MADHYA  
PRADESH)**

**.....RESPONDENTS**

**(BY SHRI PRASANJIT CHATERJEE - PANEL LAWYER)**

*This application coming on for admission this day, the court passed the  
following:*

**ORDER**

This petition under Section 482 of the Code of Criminal Procedure has been filed challenging the registration of FIR bearing Crime No.117 of 2017 at police station - Cyber Cell and charge-sheet No.63 of 2019 and entire proceeding of Judicial Magistrate First Class, Bhopal district - Bhopal for offences punishable under Sections 420 and 120B of the IPC and Section 66C of the Information Technology Act.

As per the prosecution case, the complainant lodged an FIR on 25.11.2017 stating that on 07.11.2017, his cell number 9300993300 has been ported by some other person and committed theft of such number. On such information police has registered offence under Section 66-C of the Information Technology Act. After investigation it was found by the police that the applicant has purchased the same from reliance company and ported his SIM card in the Airtel company from an agent for Rs.650/-. Thereafter the respondent No.2 threatened the applicant to return the number otherwise he would lodge complaint against him. After lodging the FIR, charge-sheet dated 25.04.2019 has been filed. It is pertinent to mention here that the applicant had earlier filed M.Cr.C. No.28841 of 2018 in respect of the same matter but it was dismissed with the liberty to the petitioner to file a fresh petition, after charge sheet is filed.

Learned counsel for the petitioner submitted that lodging of present FIR and charge-sheet are purely abuse of process of law because the applicant has duly purchased the SIM card after supplying requisite documents and thereafter got his number ported to Airtel company as per government scheme. The petitioner never met with the respondent No.2 and he only purchased the SIM from the company, hence no fraud or cheating is made out. Counsel for the petitioner has placed reliance on the decisions in the cases of **State of Haryana v. Bhajan Lal** 1992 (1) SCC 335, **Satish Mehra v. State of Delhi**, 2013 CrLJ 411, and **M.Mohan v. State**, (2011) 3 SCC 626.

On the other hand, learned Panel Lawyer submitted that the police has taken cognizance of the matter as per the material available on record and, hence, interference is warranted.

Heard learned counsel for the parties and perused the record.

Looking to the statement of the complaint, reliance agent Gourav and memorandum of the applicant himself in support of the FIR, this Court does not find any ground, at this stage, to interfere in the matter.

Accordingly, the petition is dismissed.

**(SMT. ANJULI PALO)**  
**JUDGE**

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