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HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1741 of 2023

Munmun Singh S/o Late Lalgovind Singh, Aged About 48 Years R/o
Quarter No. 2A-123 S.E.C.L. Colony Vishrampur, P.S. Vishrampur,
District Surajpur (Chhattisgarh)

---- **Petitioner**

Versus

1. State of Chhattisgarh Through The Police Station, Vishrampur,
District Surajpur (Chhattisgarh)
2. Chandrakanti Devi, W/o Govind Singh, Aged About 63 Years R/o 1-
B-52, Vishrampur, P.S. Vishrampur, Tahsil And District Surajpur
(Chhattisgarh)

---- **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Shashi Bhushan, Advocate.
For Respondent/State	: Mr. Malay Jain, Panel Lawyer.
For Respondent No.2	: Mr. Puneet Ruparel, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Sachin Singh Rajput, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

26.07.2024

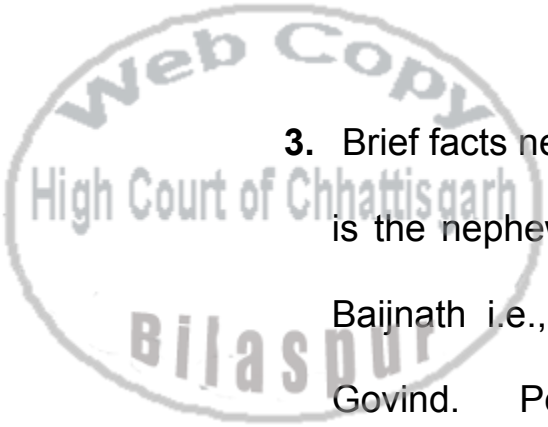
1. Heard Mr. Shashi Bhushan, learned counsel for the petitioner. Also
heard Mr. Malay Jain, learned Panel Lawyer, appearing for
respondent/State and Mr. Puneet Ruparel, learned counsel,
appearing for respondent No.2.
2. The present petition has been filed by the petitioner with the
following prayers:



“a. It is therefore, prayed that this Hon’ble Court may kindly be pleased to set-aside the impugned order dated 17.07.2023 passed by the Learned Sessions Judge, Surajpur, in Cr.R No. 09/2023, arising out of order dated 06.05.2023 passed by Learned Judicial Magistrate First Class, Surajpur, in case No. unregistered/2023.

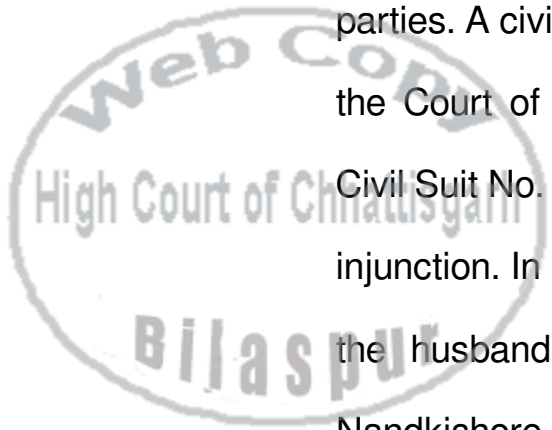
b. The Hon’ble Court further be pleased to quash the FIR of the Crime No. 88/2023 registered at Police Station Vishrampur, for the offence under Section 420 of IPC which is registered in the consequence of the order dated 06.05.2023, in the interest of justice.”

3. Brief facts necessary for disposal of this case are that the petitioner is the nephew of respondent no. 2. There were four sons of Late Baijnath i.e., (1) Lalgovind, (2) Jaigovind, (3) Lalmohar and (4) Govind. Petitioner Munmun Singh is the biological son of Jaigovind. In his childhood, he was adopted by Lalgovind and Lalgovind is his adoptive father. The name of Lalgovind Singh is recorded as the father of the petitioner in all the school records and mark-sheets from class 5th onwards. Present respondent No.2- Chandrakanti Devi is wife of Govind Singh. The parties are having their ancestral property at village Pipradih, District Bhojpur-Ara, (Bihar). Lalgovind has died on 26.01.2018 and Lalmohar has also died since 30-40 years back. The adoptive father of the petitioner Lalgovind was in service of S.E.C.L, Vishrampur area. Since he was medically unfit, he was being discharged from service on the condition that one of his dependent is to be provided job in the



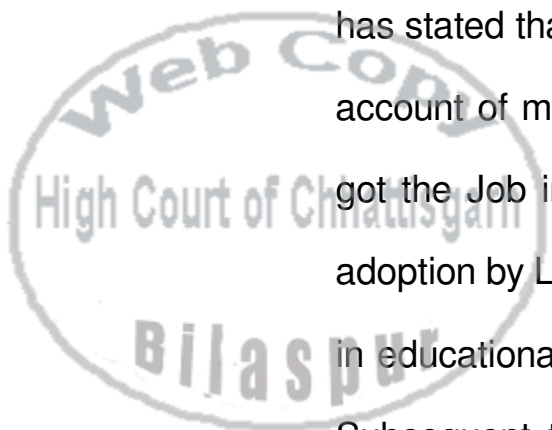


S.E.C.L. An application to this effect has also been moved by Lalgovind Singh on 09-02-2002 to the S.E.C.L. Considering the application of Lalgovind Singh, the petitioner is appointed on the post of General Mazdoor Category-1, S.E.C.L, Vishrampur area and the petitioner has joined his services at Bhatgaon area and is continuously discharging his duty as General Mazdoor Category 1 and he was promoted on the post of Assistant Foreman, Grade-III, in the year 2003. Since then the petitioner is working on that post with utmost sincerity and best of his capability. In the year 2018, when Lalgovind died, the dispute arose between the petitioner and his uncle Govind Singh with respect to the ancestral property of the parties. A civil suit is also filed on 04-07-2019 by Govind Singh before the Court of learned Sub-Judge Piro, District Bhojpur (Bihar) vide Civil Suit No. 91/2019, for partition of the suit property and permanent injunction. In order to give color the civil dispute into criminal dispute, the husband of the respondent No.2 namely Govind Singh @ Nandkishore Singh has made a complaint to the Police Station, Vishrampur, on 03-08-2019 with the effect that his brother Lalgovind Singh and his wife have died issueless and Jaigovind Singh and Govind Singh are being the son of Late Baijnath Singh, successor of the ancestral property of the family, Munmun Singh have fraudulently got entered his name in place of his father's name Jaigovind in his school records in order to get benefit in the property and thereby committed an offence and an inquiry is required in the matter. On the complaint of the husband of respondent No. 2, the matter was inquired by the Police and statement of Govind Singh and Munmun Singh were recorded and after inquiry, it was found by the Police that no any offence is committed by the present petitioner and all the



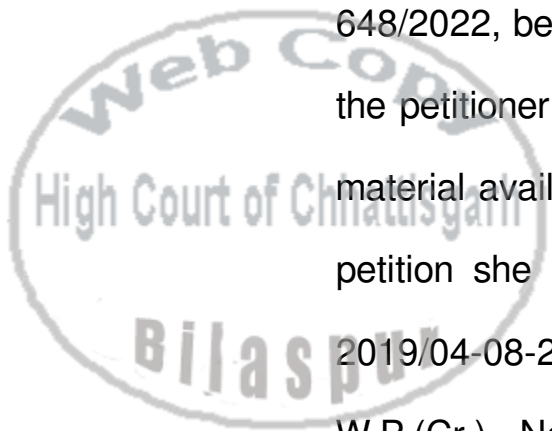


documents are in its correct names. On 22-06-2020, the husband of the respondent No. 2 moved his complaint to the Superintendent of Police, Surajpur, alleging the same facts which was alleged in the complaint dated 03-08-2019 and said that the petitioner has fraudulently got service in S.E.C.L. Upon the complaint dated 22-06-2020, the Police has again inquired the matter and submitted its report dated 22-08-2020 to the Superintendent of Police, Surajpur, in which also the police has not found commission of any cognizable offence and all the documents were found genuine and it is pertinent to mention here that during the inquiry process, the statement of Govind Singh was recorded on 12-07-2020 in which Govind Singh has stated that his brother Lalgovind was discharged from service on account of medically unfit and in his place, Munmun Singh has got the Job in which he has also given his consent and the fact of adoption by Lalgovind Singh and entering of name of Lalgovind Singh in educational records of the petitioner is well within his knowledge. Subsequent to the earlier complaint and inquiry by the Police, the husband of the respondent No. 2 has further made a complaint to the Superintendent of Police, Surajpur, which was again inquired by the City Superintendent of Police, Surajpur, who submitted his report dated 11-11-2020 to Superintendent of Police, Surajpur, in which also no cognizable offence was found to be committed by the petitioner. Being dissatisfied with the various inquiries conducted by the police, the husband of the respondent No. 2 has filed W.P.(Cr.) No. 89/2021 before this Court, claiming the relief of registration of F.I.R. against the petitioner. The said Writ Petition was came up for hearing on 08-02-2021 and this Court was pleased to dismiss the writ petition on the ground that the dispute relates to inaction and apathy



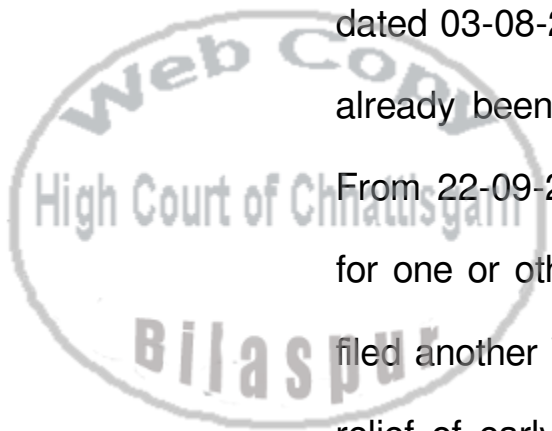


on the part of respondent authorities on taking action, no direction for lodging FIR is required to be issued and considering the facts of the case, liberty was granted to the petitioner (in that case) to avail remedy available under the law i.e. either under Section 156(3) or Section 200 of the Cr.P.C. Instead of availing the liberty granted by this Court in W.P. (Cr.) No. 89/2021, the petitioner filed the Writ Appeal No. 93/2021 before this Court, against the order dated 08-02-2021 passed by the learned Single Bench. The said Writ Appeal is pending for consideration and an application for withdrawal of Writ Appeal is filed. On 21-07-2022, the respondent No. 2 (wife of Govind Sing @ Nand Kishor Singh) had filed a W.P.(Cr.) No. 648/2022, before this Court claiming registration of the F.I.R. against the petitioner on the same facts and grounds and also on the same material available with the husband of respondent No. 2. In this writ petition she has filed the copy of written complaint dated 03-08-2019/04-08-2019 and 22-06-2020 which was also filed in the earlier W.P.(Cr.) No. 89/2021 by her husband Govind Singh. The respondent No. 2, despite having knowledge of the fact of earlier writ petition filed by her husband and order dated 08-02-2021 passed by this Court in his writ petition and also the pendency of writ appeal, deliberately suppressed the filing of earlier writ petition, order dated 08-02-2021 and pendency of the writ appeal. The respondent No. 2 has also suppressed in W.P. (Cr.) No. 648/2022 regarding the fact of various inquiries conducted by the police authorities on the same complaint of the husband of the respondent No. 2 and has obtained the order dated 23-08-2022, whereby liberty to file compliant under Section 200 or 156(3) of Cr.P.C. before the competent Court of Judicial Magistrate was granted to the respondent No. 2. It is





respectfully submitted that the order dated 23-08-2022 is obtained by the respondent No. 2 by suppression of material facts. After passing of order dated 23-08-2022, the respondent No. 2 has filed an application under Section 156(3) of Cr.P.C before the learned Judicial Magistrate First Class, Surajpur, on 22-09-2022. In this application also, the respondent No. 2 has suppressed the filing of earlier writ petition, order passed by this Court, pendency of writ appeal and also the various inquiries by the police authorities. It is further submitted that the respondent No. 2 herself has not lodged any report under Section 154 of Cr.P.C. to the concerned Police Station or the Higher Police Authorities but has filed the complaint dated 03-08-2019 and 22-06-2020 made by her husband which has already been filed in the earlier writ petition filed by her husband. From 22-09-2022 till 25-04-2023, the proceedings were adjourned for one or other reason. On 01-05-2023, the respondent No. 2 has filed another W.P.(Cr.) No. 239/2023 before this Court, claiming the relief of early disposal of her application filed before the J.M.F.C., Surajpur, under Section 156(3) of Cr.P.C. On 05-05-2023, when the matter came up for hearing before the Hon'ble Court, the petitioner (respondent No. 2 of this petition) has withdrawn the writ petition with liberty to file duly constituted petition under Section 482 of Cr.P.C. On 06-05-2023, the learned Judicial Magistrate First Class, Surajpur, has passed the order for registration of FIR and to submit final report after investigation. It is necessary to mention here that vide order dated 28-01-2023, the learned Judicial Magistrate First Class has called the police report from the concerned Police Station who after inquiry, submitted the inquiry report on 27-02-2023 before the learned Judicial Magistrate First Class, Surajpur. The inquiry report

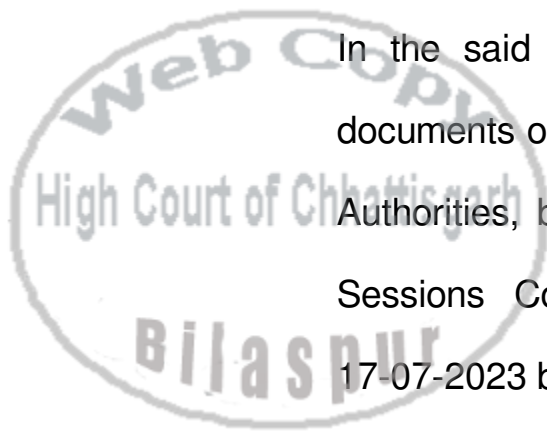




dated 27-02-2023 is in consonance of the earlier report dated 15-11-2019, 22-08-2020, 07-11-2020 and 11-11-2020 and no cognizable offence appears against the petitioner in all the inquiry reports. The inquiry report dated 27-02-2023 is ignored by the learned Judicial Magistrate while passing the order dated 06-05-2023. Consequent to the order dated 06-05-2023, the F.I.R. of Crime No. 88/2023 for the offence under Section 420 of IPC has been registered on 11-05-2023 by the Police Station Vishrampur.

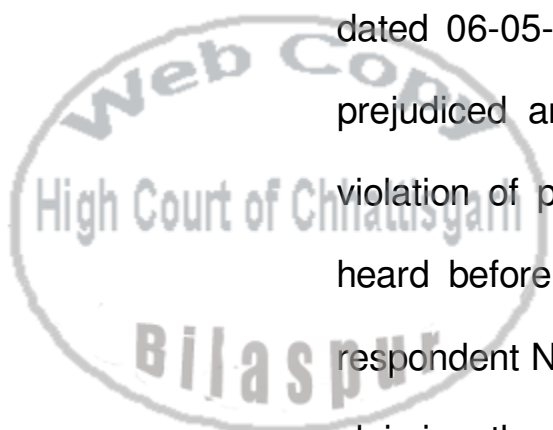
4. The order dated 06-05-2023 passed by the learned Judicial Magistrate First Class, Surajpur, was challenged before the learned Sessions Judge, Surajpur, by filing a Criminal Revision No. 09/2023. In the said Criminal Revision the petitioner has filed the entire documents of earlier proceedings and various inquiries by the Police Authorities, but the same has not been considered by the learned Sessions Court. The said Criminal Revision is dismissed on 17-07-2023 by the learned Sessions Judge. Hence, this petition.

5. Learned counsel for the petitioner submits the learned Courts below should have considered that the application filed under Section 156(3) CrPC by the present respondent No. 2 was not maintainable for the reason of non-compliance of Section 154 CrPC, they should have considered that the remedy against the complaints dated 03-08-2019 and 22-06-2020 have already been availed by the husband of the respondent No. 2 in various proceedings. The respondent No. 2 herself has not lodged any compliant against the petitioner independently. Therefore, directly filing of the application under Section 156(3) CrPC is not maintainable. He further submits that the respondent No. 2 has suppressed the material facts in her



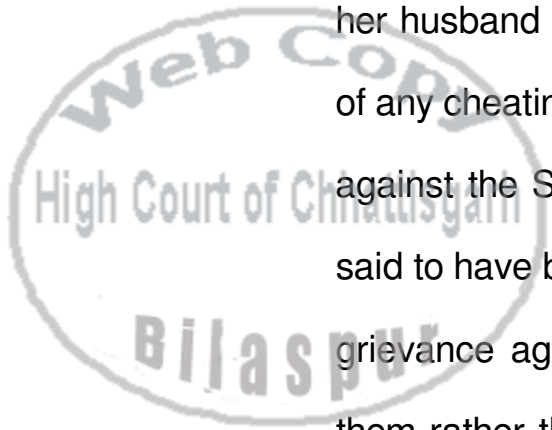


writ petition filed before this Court and has obtained order with respect to liberty to approach before learned J.M.F.C for filing complaint under Section 200 or 156(3) CrPC had she been disclosed about the earlier writ petition filed by her husband, order passed in those writ petition and inquiry reports, the liberty might not have been granted to her and her writ petition might be dismissed. On the strength of the liberty granted by the order dated 23-08-2022 in W.P. (Cr.) No. 648/2022, the application was filed and direction to register the FIR and to investigate the matter is passed. The petitioner/proposed accused has not been heard by the learned Judicial Magistrate First Class, Surajpur, before passing the order dated 06-05-2023. By the said order, the right of the petitioner is prejudiced and his liberty is under suspense. There is complete violation of principle of natural justice and he was required to be heard before passing any order against him. The husband of the respondent No. 2 has filed a W.P.(S) No. 938/2021 before this Court claiming the relief of initiation of departmental inquiry against the respondent No. 5 (Petitioner of the present petition) and to terminate him from job. In the said writ petition, the respondent S.E.C.L. has filed their reply and submitted that there is no irregularity in appointment of the respondent No. 5 (Present Petitioner) and his service records consists with the correct documents. The learned Courts below have completely ignored the inquiry reports submitted by the police and the statements of the complainant made before the police in which they specifically stated that they have their consent in appointment of the petitioner after declaring medically unfit of Lalgovind Singh. It is only when the property dispute arose after death of Lalgovind, the complaint has been made with the ulterior





motive to grab his property which is apparent from the civil suit filed by Govind Singh. The entire facts was well within the knowledge of all the family members including the respondent No. 2 and her husband from very beginning, but the complaint has been lodged in the year 2019 itself. The petitioner is in service since 2002 and Lalgovind is his adoptive father is also very well known by them and the husband of the respondent No. 2 is also in service at S.E.C.L. in the same area. He further submits that it is wholly impermissible in the case that when the husband failed to obtain relief from the court, he bring his wife into picture to harass the petitioner who acted on the instruction of her husband. The complainant/respondent No. 2 and her husband are not the aggrieved party in the case because no act of any cheating against them is alleged. The act of cheating is alleged against the S.E.C.L. or the school in whose record the tempering is said to have been done. Neither the S.E.C.L. nor the School have any grievance against the petitioner and has not lodged any report by them rather they have submitted their report that all the records are correct and no irregularities are found in appointment of the petitioner. After few inquiry of available records, the police has also submitted their report repeatedly in favour of the petitioner. The respondent No. 2 has suppressed the material facts regarding filing of the various writ petition before this Court and its order and has obtained the order of liberty to file application of Section 156(3) of Cr.P.C. suppression of material facts cannot be encouraged by the learned Courts below and such practice should deprecated by dismissing their application. Despite having availability of document, the learned Sessions Court has completely ignored and impugned order has been passed which is liable to be set-aside and without





there being any preliminary inquiry, the police has registered the F.I.R. on the complaint of the respondent No. 2. Looking to the nature of allegations, the police ought to have conduct preliminary inquiry. Without there being any preliminary inquiry, the F.I.R. has been registered which is liable to be quashed. He also submits that the inherent powers of the Hon'ble Court under Section 482 of the CrPC for quashment of F.I.R./complaint/criminal proceeding can be exercised to secure the ends of justice or to prevent an abuse of process of any court. Further if the case has predominant element of Civil Dispute it can be quashed and cases involving offences which arise from commercial, financial, mercantile, partnership or similar transaction with an essentially Civil flavour can be quashed. He relies upon the judgment of the Supreme Court in the matters of **Manoj Kumar Sharma and others v. State of Chhattisgarh and others**¹ and **State of Haryana and others v. Bhajan Lal and others**².

6. On the other hand, learned counsel appearing for respondent No.2 opposes the submissions made by the learned counsel for the petitioner and submits that JMFC, Surajpur while passing the order under Section 156(3) CrPC has directed to register the FIR against the petitioner and further directed that after investigation filed the final report before the concerned Court. He further submits that in the present case, investigation is going on and the petitioner has not cooperated with the investigation. His anticipatory bail application has been rejected on merits, thereafter, he has not preferred any anticipatory bail before this Court and chooses to file the instant petition and till date he is absconding from investigation authority.

1 (2016) 9 SCC 1

2 1992 Supp (1) SCC 335



7. We have heard learned counsel for the parties and perused the documents appended with petition.
8. The Supreme Court in the matter of **Bhajan Lal** (supra) 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.

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.”





9. The principle of law laid down in **Bhajan Lal's** case (supra) has been followed recently by the Supreme Court in the matters of **Google India Private Limited v. Visaka Industries**³, **Ahmad Ali Quraishi and another v. State of Uttar Pradesh and another**⁴ and **Dr Dhruvaram Murlidhar Sonar v. State of Maharashtra and others**⁵. The Supreme Court in **Google India Private Limited** (supra), explained the scope of dictum of **Bhajan Lal's** case (supra) that the power of quashing a criminal proceeding be exercised very sparingly and with circumspection and “that too in the rarest of rare cases” as indicated in paragraph 103 therein of the report.

10. The The Supreme Court in the matter of **Manoj Kumar Sharma** (supra) 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:-

“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

3 (2020) 4 SCC 162

4 (2020) 13 SCC 435

5 (2019) 18 SCC 191





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 therefrom) specially





when it is clear that the same would not conclude in the conviction of the accused.”

11. The Supreme Court in the matter of **Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and others**⁶ has observed that the power of quashing should be exercised sparingly with circumspection in the rarest of rare cases. While examining an FIR/complaint, quashing of which is sought, the court cannot inquire about the reliability, genuineness, or otherwise of the allegations made in the FIR/complaint. The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. The Supreme Court has emphasised that though the court has the power to quash the FIR in suitable cases, the court, when it exercises power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider the case on merit.

12. From perusal of the records, it transpires that in order to give color the civil dispute into criminal dispute, the husband of the respondent No.2 namely Govind Singh @ Nandkishore Singh has made a complaint to the Police Station, Vishrampur, on 03-08-2019 with the effect that his brother Lalgovind Singh and his wife have died issueless and Jaigovind Singh and Govind Singh are being the son of Late Baijnath Singh, successor of the ancestral property of the family, Munmun Singh have fraudulently got entered his name in place of his father's name Jaigovind in his school records in order to get benefit in the property and thereby committed an offence and an inquiry is required in the matter. On the complaint of the husband of respondent No. 2, the matter was inquired by the Police and

⁶ 2021 SCC Online SC 315



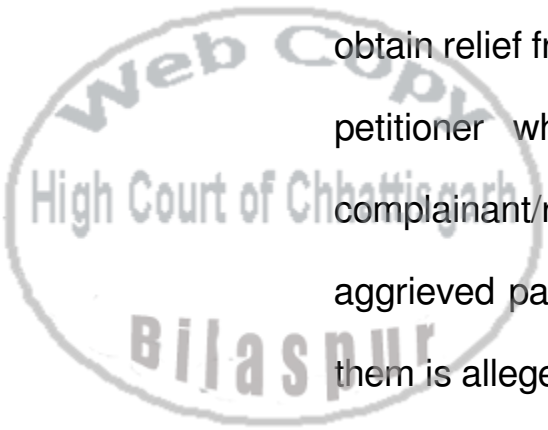
statement of Govind Singh and Munmun Singh were recorded and after inquiry, it was found by the Police that no any offence is committed by the present petitioner and all the documents are in its correct names. It also transpires that on 22-06-2020, the husband of the respondent No. 2 moved his complaint to the Superintendent of Police, Surajpur, alleging the same facts which was alleged in the complaint dated 03-08-2019 and said that the petitioner has fraudulently got service in S.E.C.L. Upon the complaint dated 22-06-2020, the Police has again inquired the matter and submitted its report dated 22-08-2020 to the Superintendent of Police, Surajpur, in which also the police has not found commission of any cognizable offence and all the documents were found genuine. During the inquiry process, the statement of Govind Singh was recorded on 12-07-2020 in which Govind Singh has stated that his brother Lalgovind was discharged from service on account of medically unfitness and in his place, Munmun Singh has got job in which he has also given his consent and the fact of adoption by Lalgovind Singh and entering of name of Lalgovind Singh in educational records of the petitioner is well within his knowledge. Subsequent to the earlier complaint and inquiry by the Police, the husband of the respondent No. 2 has further made a complaint to the Superintendent of Police, Surajpur, which was again inquired by the City Superintendent of Police, Surajpur, who submitted his report dated 11-11-2020 to Superintendent of Police, Surajpur, in which also no cognizable offence was found to be committed by the petitioner.

13. Learned Courts below have completely ignored the inquiry reports



submitted by the police and the statements of the complainant made before the police in which they specifically stated that they have their consent in appointment of the petitioner after declaring medically unfit of Lalgovind Singh. It is only when the property dispute arose after death of Lalgovind, the complaint has been made with an ulterior motive to grab his property which is apparent from the civil suit filed by Govind Singh. The entire facts was well within the knowledge of all the family members including the respondent No. 2 and her husband from very beginning, but the complaint has been lodged in the year 2019 itself.

- 14.** It is wholly impermissible in the case that when the husband failed to obtain relief from the Court, he bring his wife into picture to harass the petitioner who acted on the instruction of her husband. The complainant/respondent No. 2 and her husband are not the aggrieved party in the case because no act of any cheating against them is alleged. The act of cheating is alleged against the S.E.C.L. or the school in whose record the tempering is said to have been done. Neither the S.E.C.L. nor the School have any grievance against the petitioner and has not lodged any report by them, rather they have submitted their report that all the records are correct and no irregularities are found in appointment of the petitioner.
- 15.** In view of the above discussion, we are of the considered opinion that the allegations made in the FIR are inherently improbable and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the petitioner herein. In the case in hand, malicious prosecution was instituted by the respondent No.2 after a long period. There was no





accusation against the petitioner before filing of the FIR. The allegations are vague and do not warrant continuation of criminal proceedings against the petitioner.

16. For the foregoing discussion, the impugned order dated 17.07.2023 passed by the learned Sessions Judge, Surajpur in Criminal Revision No.09/2023, arising out of the order dated 06.05.2023 passed by the Judicial Magistrate First Class, Surajpur in case No. unregistered/2023 and FIR registered in Crime No.88/2023 at Police Station Vishrampur for offence under Section 420 of the IPC which is registered in consequence of the order dated 06.05.2023 are hereby quashed.

17. The CRMP is **allowed** to the extent indicated hereinabove.

Sd/-

(Sachin Singh Rajput)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Bablu