



2026:CGHC:10455-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 88 of 2016

High Court of Chhattisgarh Through The Registrar General, High Court of Chhattisgarh, Raipur Road, Bilaspur, District Bilaspur Chhattisgarh, Chhattisgarh

... **Petitioner**

versus

1 – State of Chhattisgarh Through The Secretary, Department of Home (Police), Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh

2 - Smt. Pratibha Gwal, W/o Shri Prabhakar Gwal, Aged About 39 Years R/o Village Nanakpali, Thana And Tehsil Saraipali, District Mahasamund, Chhattisgarh

Presently R/o At Judges Bungalow, Sukma, District Sukma, Chhattisgarh

3 - Shri Prabhakar Gwal, Aged About 45 Years Presently Posted As Chief Judicial Magistrate, Judges Bungalow, Sukma, District Sukma, Chhattisgarh

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Dr. N.K. Shukla, Senior Advocate assisted by Mr. Amrito Das, Advocate
For Respondent No.1/State	:	Mr. Praveen Das, Additional Advocate General
For Respondent No.2	:	Ms. Sareena Khan, Advocate
For Respondent No.3	:	None, though served.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

28/02/2026

1. Heard Dr. N.K. Shukla, learned Senior Counsel assisted by Mr. Amrito Das, learned counsel for the Petitioner as well as Mr. Praveen Das,

learned Additional Advocate General appearing for the State/
Respondent No.1 and Ms. Sareena Khan, learned counsel appearing for
Respondent No.2/complainant.

2. Despite service of notice, none appears on behalf of Respondent No. 3. On 13.12.2024, Mr. Jitendra Dhruw, learned counsel had appeared and submitted that he has filed his Vakalatnama on behalf of the respondent No. 3 and prayed for some time. Thereafter, the matter was taken up on 09.12.2025 and 23.01.2026 but on the said dates also, none appeared on behalf of the respondent No. 3.
3. By filing of the present petition, the Petitioner has prayed for following relief(s) :-

“10.1 That, this Hon'ble Court may kindly be pleased to call for the entire record, orders and proceeding of the criminal complaint filed by respondent No. 2 complainant before the learned Additional Chief Judicial Magistrate, Raipur, District Raipur, Chhattisgarh for its kind perusal.

10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ quashing the unregistered criminal complaint preferred by respondent No. 2 on 26.03.2016 before the learned Additional Chief Judicial Magistrate, Raipur, District Raipur, Chhattisgarh (ANNEXURE P/1).

10.3 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ quashing the order dated 26.03.2016 (ANNEXURE P/2) passed by the learned Additional Chief Judicial Magistrate, Raipur, District Raipur, Chhattisgarh.

10.4 Any other relief, which this Hon'ble Court, may deem fit and proper, in the facts and circumstances of the case.”

4. The present matter arises out of a criminal complaint filed by Respondent No. 2, who is the wife of Respondent No. 3, before the Court of the learned Additional Chief Judicial Magistrate, Raipur, District Raipur, Chhattisgarh on 26.03.2016. In the said complaint, serious allegations have been levelled against Hon'ble the then Chief Justice and a sitting Hon'ble Judge of the High Court of Chhattisgarh, along with several members of the Higher Judicial Service of the State.
5. Respondent No. 3 was a judicial officer and was posted as Chief Judicial Magistrate, Sukma, District Sukma, Chhattisgarh. The complaint was entertained by the learned Magistrate and the matter was fixed for recording of preliminary evidence.
6. The foundation of the complaint stems from an incident allegedly occurring on 31.10.2015 at Arang Toll Plaza on National Highway No. 6, when Respondent No. 2 and her husband (Respondent No. 3) were travelling to their native village. It is alleged that Respondent No. 3 was misbehaved with and abused by certain persons, in respect of which an FIR was registered at Police Station Arang, District Raipur. The grievance raised in the impugned complaint is essentially that the police did not file a chargesheet in the said FIR, allegedly due to a conspiracy involving police officials, members of the judicial service, and even the then Hon'ble Chief Justice and a sitting Judge of the High Court.
7. On a reading of the complaint, there are no specific allegations detailing the commission of any overt act by the Hon'ble Judges of the High Court or by the judicial officers arrayed therein. The allegations are predominantly based on apprehension and suspicion that the chargesheet was withheld pursuant to a conspiracy. There is no assertion of any specific agreement, meeting of minds, act, omission,

date, or circumstance to substantiate the ingredients of criminal conspiracy or any other cognizable offence as against the said persons.

- 8.** Further, the offences referred to in the complaint, namely under Sections 294, 323, 506, 186, 353, and 511/34 of the Indian Penal Code, 1860 (for short, 'IPC') pertain to the alleged incident at the Toll Plaza and do not disclose any connection of the Hon'ble Judges or the judicial officers with the alleged occurrence. It is not disputed that a separate FIR had already been registered at the instance of Respondent No. 3 in relation to the said incident.
- 9.** It is also significant that the complaint has been filed by Respondent No. 2, though the alleged grievance pertains to Respondent No. 3 in his official capacity. The averments in the complaint suggest reliance upon information purportedly within the exclusive knowledge of Respondent No. 3 in his official dealings. The affidavit in support of the complaint is sworn by Respondent No. 2, though the matters alleged primarily relate to official interactions and administrative grievances concerning Respondent No. 3.
- 10.** The Respondent Nos. 11 to 19 in the complaint case, have challenged the maintainability and bona fides of the impugned complaint, contending that the same is vague, bereft of material particulars, and filed with mala fide intention to scandalize members of the judiciary and to ventilate personal or service-related grievances under the garb of criminal prosecution. In the above backdrop, the present proceedings arise for consideration before this Court.
- 11.** Dr. N.K. Shukla, learned Senior Advocate, at the very outset, submits that the impugned criminal complaint is a glaring abuse of the process of law and is liable to be quashed in *limine*. It is contended that initiation of

criminal proceedings has serious civil and criminal consequences, particularly when allegations are levelled against constitutional functionaries and members of the Higher Judicial Service. The complaint, on its plain reading, does not disclose any specific overt act attributable to the then Hon'ble the Chief Justice, a sitting Hon'ble Judge of the High Court, or the judicial officers arrayed therein. The entire edifice of the complaint is built upon a mere "apprehension" expressed by the complainant that the chargesheet in an FIR lodged by her husband has not been filed due to some alleged conspiracy. Such vague suspicion, bereft of material particulars, cannot form the foundation of criminal prosecution.

- 12.** Dr. Shukla further submits that the complainant has herself admitted in the body of the complaint that it is her apprehension that the police did not file the chargesheet on account of a conspiracy. There is neither mention of any specific date, nor the particulars of any meeting of minds, nor any material to suggest an agreement among the accused persons to commit an illegal act. The allegations are sweeping, omnibus and lacking in essential ingredients of any cognizable offence. It is also argued that criminal law cannot be set into motion on surmises, conjectures or unverified assumptions. The complaint, even if taken at its face value, does not make out any case whatsoever against Respondent Nos. 11 to 19.
- 13.** Dr. Shukla next submits that so far as the allegation of criminal conspiracy is concerned, the complaint is completely silent with regard to the basic ingredients of Section 120-B of the Indian Penal Code, i.e., an agreement between two or more persons to do an illegal act or to do a legal act by illegal means. There is not even a whisper of any specific

communication, interaction or understanding between the judicial officers and the police authorities. The mere non-filing of a chargesheet, even if assumed to be true, does not constitute an offence, much less criminal conspiracy, against judicial officers of the High Court.

- 14.** It is further contended that the offences under Sections 294, 323, 506, 186, 353 and 511/34 IPC, as referred to in the complaint, pertain to an alleged incident dated 31.10.2015 at Arang Toll Plaza. In respect of the said incident, Respondent No. 3 himself has already lodged an FIR. The present complaint seeks to drag in members of the judiciary who have absolutely no connection with the said occurrence. The allegations, therefore, are manifestly absurd and inherently improbable. Dr. Shukla submits that the complaint is nothing but an attempt to sensationalize a personal grievance and to scandalize the judicial institution.
- 15.** Dr. Shukla further argues that Respondent No. 3, being a member of the judicial service, has sought to ventilate his alleged service grievances relating to work allotment, postings and assignments through the medium of his wife, Respondent No. 2. The complainant has no personal knowledge of the alleged administrative or official interactions between Respondent No. 3 and his superior officers. The affidavit filed in support of the complaint is thus based on hearsay and cannot sustain criminal prosecution. It is submitted that Respondent No. 3 has deliberately used Respondent No. 2 as a front to level reckless and insinuating allegations against constitutional authorities, thereby misusing the criminal process for oblique purposes.
- 16.** Dr. Shukla submits that the continuation of such proceedings would have a chilling effect on the independence of the judiciary and would amount to permitting vexatious litigation against judicial officers without any

substantive material. The complaint is clearly malicious, vindictive and instituted with the ulterior motive of wreaking personal vengeance. Therefore, this is a fit case where the inherent jurisdiction of this Court deserves to be exercised to secure the ends of justice and to prevent abuse of the process of Court.

17. In support of the above submissions, Dr. Shukla places reliance on the judgment of the Hon'ble Supreme Court in ***Priyanka Shrivastava v. State of Uttar Pradesh, (2015) 6 SCC 287***, wherein the Apex Court has cautioned that the authority of the Magistrate cannot be invoked at the mere whim of a litigant and that perverted or motivated litigation must be curbed at the threshold. It is submitted that the present complaint, being founded solely on apprehension and devoid of material particulars, squarely attracts the ratio laid down therein.
18. Learned Senior Counsel has also relied upon the celebrated judgment in ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, wherein the Hon'ble Supreme Court has illustratively enumerated categories of cases where criminal proceedings deserve to be quashed in exercise of inherent powers. It is submitted that the present case falls squarely within the categories where the allegations, even if taken at face value, do not constitute any offence and where the proceedings are manifestly attended with mala fide intention.
19. Further reliance is placed upon ***Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749***, wherein the Hon'ble Supreme Court has held that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set in motion as a matter of routine. It is urged that the mechanical entertainment of the complaint in the present case is contrary to the principles laid down therein. On the aforesaid grounds, Dr.

Shukla prays that the impugned criminal complaint and all consequential proceedings arising therefrom deserve to be quashed.

- 20.** Mr. Praveen Das, learned Additional Advocate General appearing for the State, submits that the State has been arrayed as a formal party in the present proceedings. He submits that the controversy involved is essentially *inter se* between the private parties and that no specific relief has been claimed against the State. It is further submitted that the State would abide by any order that may be passed by this Court and has no independent objection to the adjudication of the dispute on its own merits.
- 21.** Placing reliance on the reply affidavit filed by the respondent No. 2, Ms. Sareena Khan, learned counsel submits that the present writ petition is wholly misconceived, malicious and filed with the intent to shield certain high constitutional functionaries from legitimate scrutiny. It is contended that the petitioner has deliberately suppressed material facts and has approached this Court on fabricated and baseless grounds, without any legal authority or locus to maintain the present proceedings. She submits that Respondent No. 3 has been deliberately and conspiratorially arrayed as a party in the writ petition only to create prejudice and to malign his reputation. It is argued that the failure of the petitioner to array the original complainant in an appropriate capacity reflects mala fide intention and establishes that the writ petition itself is a product of conspiracy intended to stifle a lawful criminal process. It is further submitted that the complaint filed by Respondent No. 2 before the learned Additional Chief Judicial Magistrate, Raipur was supported by foundational facts and prima facie material. The learned Magistrate, by order dated 26.03.2016, merely fixed the matter for recording of

preliminary evidence. At such a nascent stage, when only an inquiry under Section 200 CrPC was underway and cognizance had not even been taken, interference by this Court by way of stay was wholly unwarranted and without jurisdiction. Ms. Khan contends that the law does not permit stifling of a complaint at the threshold before evidence is led, particularly where serious allegations of conspiracy and abuse of authority are involved.

- 22.** Ms. Khan further submits that Respondent No. 3, a judicial officer at the relevant time, had earlier been subjected to adverse proceedings and criminal registration during the tenure of the then Chief Justice and a sitting Judge of the High Court. It is alleged that no such intervention was made by the High Court administration in those proceedings. Thus, according to her, the present writ petition reveals a selective and conspiratorial exercise of power intended to cause harm to the family of Respondent No. 2 and to protect influential individuals. She contends that the grievance of Respondent No. 2 is not confined merely to non-filing of a charge-sheet in the FIR lodged by Respondent No. 3, but relates to a larger conspiracy allegedly involving illegal transfer, stoppage of increment, repeated issuance of notices, and eventual termination of service of Respondent No. 3. It is submitted that these events form part of a coordinated sequence of actions beginning with certain administrative decisions and culminating in punitive measures, which according to Respondent No. 2, were designed to target her family. It is further argued that Respondent No. 3 was transferred to a Naxal-affected area pursuant to a meeting alleged to have taken place between high constitutional authorities and political executives, and thereafter subjected to repeated administrative harassment, including stoppage of annual increment by order dated 04.02.2016 and eventual termination of

service by order dated 01.04.2016. These actions, taken together, lend credence to the allegation that the family of Respondent No. 2 was systematically targeted.

- 23.** Ms. Khan submits that the complaint filed under Section 200 CrPC is a statutory right available to every citizen, and Respondent No. 2, not being legally trained, cannot be faulted for not initially invoking any in-house mechanism. According to her, the existence of an internal procedure does not bar access to ordinary criminal law remedies when serious allegations of criminal misconduct are made. It is further submitted that the judicial precedents relied upon by the petitioner, including those relating to quashing of proceedings, have been misapplied, as the complaint is at a preliminary stage and no investigation or trial has yet occurred. Learned counsel argues that the truth or otherwise of the allegations can only be determined after recording of evidence and not at the threshold by invoking extraordinary jurisdiction. Ms. Khan also contends that the stay order granted in the writ petition was beyond jurisdiction and violative of principles of natural justice, as the complainant was deprived of an opportunity to substantiate her case. According to her, the writ petition has been filed with oblique motive to pre-empt disclosure of material facts and to obstruct lawful inquiry into serious allegations of conspiracy.
- 24.** In conclusion, learned counsel for Respondent No. 2 submits that the writ petition deserves to be dismissed, the stay order vacated, and the complaint restored to its original file for proceeding in accordance with law. She further prays for appropriate directions, including compensation for alleged harassment and liberty to pursue remedies under applicable statutory and procedural frameworks.

- 25.** Though none appears on behalf of Respondent No. 3 at the time of hearing, it is noticed that Respondent No. 3 has filed a detailed return/reply-affidavit on record contesting the averments made in the writ petition. In the said reply-affidavit, Respondent No. 3 has, in substance, contended that the writ petition is founded on false, fabricated and baseless allegations and has been instituted with *mala fide* intent to shield certain influential persons and to thwart a lawful criminal process initiated at the instance of Respondent No. 2. It is asserted that the petitioner has neither any legal right nor authority to maintain the present proceedings at the stage when the complaint before the learned ACJM, Raipur, is only at the stage of preliminary inquiry under Section 200 CrPC. Respondent No. 3 has further stated that he has been unnecessarily and conspiratorially impleaded as a party in the present writ petition and that his impleadment is intended only to prejudice him and to give a colour of legitimacy to the challenge. According to him, the complaint filed by Respondent No. 2 was based on foundational facts and documentary material, and no cognizance had been taken at the relevant stage; therefore, there was no occasion for the proposed accused to seek quashing or stay of the proceedings.
- 26.** It is also contended by Respondent No. 3 that a larger conspiracy had been carried out against him and his family, beginning with alleged administrative actions including transfer to a Naxal-affected area, issuance of repeated notices, stoppage of annual increment, and eventual termination from service. These actions, according to Respondent No. 3, form part of a coordinated attempt to victimise him for having acted bona fide in discharge of his judicial functions. Respondent No. 3 has further alleged that the non-filing of the chargesheet in the FIR lodged by him was not an isolated act, but part of a broader design to

shield certain persons. He contends that the complaint filed by Respondent No. 2 was bona fide and intended to bring these facts before a competent court of law, and that the stay order passed in the present writ petition has unlawfully stalled the inquiry, thereby denying an opportunity to substantiate the allegations through evidence. It is also stated that, if required, appropriate remedies under the applicable legal framework, including criminal law and internal disciplinary mechanisms, may be pursued by him in accordance with law. On these premises, Respondent No. 3 has prayed for dismissal of the writ petition, vacation of the interim stay, and for permitting the complaint proceedings before the learned Magistrate to continue in accordance with law.

- 27.** We have heard learned counsel for the parties. We have also meticulously examined the pleadings on record, the impugned complaint, the order dated 26.03.2016 passed by the learned Additional Chief Judicial Magistrate, Raipur fixing the matter for preliminary evidence, and the rival submissions advanced at length.
- 28.** At the outset, it deserves emphasis that initiation of criminal proceedings is not an empty formality. The summoning of constitutional functionaries and members of the Higher Judicial Service entails serious consequences, not only to the individuals concerned but also to the institutional integrity of the judicial system. Criminal law cannot be permitted to be invoked as a tool of harassment, intimidation or to ventilate administrative or service grievances under the guise of criminal prosecution.
- 29.** Upon a plain and meaningful reading of the impugned complaint, this Court finds that the entire edifice of allegations against the Hon'ble the then Chief Justice, a sitting Judge of the High Court, and other judicial

officers is founded on mere apprehension and suspicion. The complainant herself has categorically recorded that it is her “apprehension” that the chargesheet in the FIR lodged by her husband was not filed on account of some conspiracy. Apart from such apprehension, there is no specific averment disclosing any overt act, any meeting of minds, any agreement, or any material particulars constituting the essential ingredients of the offences alleged, particularly that of criminal conspiracy.

- 30.** It is trite that for constituting an offence under Section 120-B of the IPC, there must be specific allegations indicating an agreement between two or more persons to do an illegal act or to do a lawful act by illegal means. The complaint in question is conspicuously silent on these foundational aspects. The allegations are omnibus, vague and inherently improbable so far as Respondent Nos. 11 to 19 before the trial Court are concerned. Even if the entire complaint is taken at its face value and accepted in its entirety, no offence is made out against the said respondents.
- 31.** Equally significant is the fact that the offences under Sections 294, 323, 506, 186, 353 and 511/34 IPC pertain to an incident dated 31.10.2015 at Arang Toll Plaza, in respect of which a separate FIR had already been lodged at the instance of Respondent No. 3. The judicial officers and Hon’ble Judges arrayed in the impugned complaint are not alleged to have any connection whatsoever with the said occurrence. The attempt to link them to the non-filing of the chargesheet, without any factual substratum, is clearly an overreach.
- 32.** The law relating to quashing of criminal proceedings is well crystallized. In ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, the Hon’ble Supreme Court illustratively enumerated categories where

inherent powers may be exercised to prevent abuse of process or to secure the ends of justice, including cases where the allegations, even if taken at face value, do not constitute any offence, or where the proceedings are manifestly attended with mala fide intention. The present case squarely falls within such parameters. The Supreme Court, in the said celebrated judgment, laid down that quashing is justified particularly where: (i) the allegations in the FIR or complaint do not prima facie constitute any offence; (ii) the allegations are absurd or inherently improbable; (iii) there is an express legal bar to the institution or continuance of proceedings; and (iv) the proceedings are manifestly attended with mala fide or instituted with an ulterior motive for wreaking vengeance.

- 33.** The principle that criminal process cannot be set in motion at the mere whim or on bald allegations has been reiterated in ***Pepsi Foods Ltd.*** (supra), wherein it has been held that summoning of an accused is a serious matter and the Magistrate must apply his mind to ascertain whether a prima facie case is made out. Likewise, in ***Priyanka Srivastava*** (supra), the Apex Court cautioned that perverted and motivated litigations should not be allowed to abuse the criminal justice machinery.
- 34.** In more recent pronouncements such as ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401***, the Supreme Court has delineated the contours of judicial interference at the threshold stage and underscored that while ordinarily investigation should not be stifled, the High Court would be justified in exercising jurisdiction where the complaint ex facie does not disclose commission of any cognizable offence or is maliciously instituted. The Court emphasized that: (i) at the

stage of quashing, the Court is required to examine whether the allegations disclose a cognizable offence; (ii) Courts should ordinarily not interfere with investigation; and (iii) however, where the allegations do not disclose any offence or fall within the parameters laid down in *Bhajan Lal*, interference would be justified.

- 35.** The submission by filing reply-affidavits on behalf of Respondents No. 2 and 3 that the matter is at the stage of preliminary inquiry and, therefore, immune from interference, cannot be accepted as an absolute proposition. When the complaint on its very face fails to disclose the essential ingredients of the alleged offences and is founded purely on conjectures and surmises, this Court, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, cannot remain a silent spectator and compel individuals to undergo the rigours of a criminal prosecution which is *ex facie* untenable.
- 36.** We are also conscious that allegations have been made regarding administrative actions such as transfer, stoppage of increment and termination of service of Respondent No. 3. However, such matters lie squarely within the realm of service jurisprudence and cannot be camouflaged as criminal conspiracy in the absence of tangible and cogent material. Permitting such omnibus accusations against members of the judiciary and public servants to proceed without foundational facts would seriously impair institutional integrity and open floodgates for disgruntled litigants or officers to level reckless allegations.
- 37.** Though the present petition has been preferred under Article 226 of the Constitution of India and not under Section 482 CrPC, it is well settled that the constitutional jurisdiction of this Court is wider and is meant to ensure that the process of law is not abused. The extraordinary writ

jurisdiction can certainly be invoked to prevent miscarriage of justice and to quash criminal proceedings which are manifestly attended with mala fides or do not disclose any offence. This Court is satisfied that the impugned complaint is devoid of material particulars, does not disclose commission of any cognizable offence against the then Chief Justice and one sitting Judge of this Court as also Respondent Nos. 11 to 19, and is an attempt to convert administrative or personal grievances into a criminal prosecution.

- 38.** In view of the foregoing analysis and upon an anxious consideration of the factual matrix as well as the settled principles of law governing interference at the threshold stage, we are of the considered opinion that the continuance of the impugned complaint proceedings against the Respondent Nos. 11 to 19 before the learned trial Court would amount to a gross abuse of the process of law. The allegations contained in the complaint, even if taken at their face value and accepted in entirety, fail to disclose the essential ingredients of the offences alleged. The proceedings appear to be manifestly attended with mala fide intention and founded upon conjectures rather than concrete material. Permitting such prosecution to proceed would not serve the ends of justice but would instead subject the concerned persons to unnecessary harassment and the rigours of a criminal trial without foundational basis in law.
- 39.** Accordingly, the present writ petition filed under Article 226 of the Constitution of India deserves to be and is hereby allowed. The impugned criminal complaint instituted by Respondent No. 2 before the learned Additional Chief Judicial Magistrate, Raipur, in so far as it pertains to the Respondent Nos. 11 to 19 before the trial Court, is

quashed and set aside. Consequently, the order dated 26.03.2016 passed by the learned Magistrate, whereby the matter was fixed for recording of preliminary evidence against them, also stands set aside to that extent. It is, however, clarified that this order shall operate only in respect of Respondent Nos. 11 to 19 before the trial Court and shall not be construed as an expression of opinion on the merits of the case, if any, qua other accused persons in the said complaint case.

- 40.** The writ petition stands **allowed** in the above terms. Pending interlocutory applications, if any, shall also stand disposed of. There shall be no order as to costs.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice