



2025:CGHC:24231-DB

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****WPCR No. 137 of 2025**

Ahsan Rais S/o Rais Ahmad Aged About 41 Years R/o Pipratal Bhadarsa  
Bahar, Tahsil- Sohawal, District- Ayodhya (U.P.)

**... Petitioner(s)****versus**

1. State of Chhattisgarh Through Its Secretary, Department of Home/police, Mahanadi, Mantralaya, Police Station- Rakhi, Atal Nagar, New Raipur, District- Raipur (C.G.)
2. Superintendent of Police, Bilaspur, District Bilaspur (C.G.)
3. Station House Officer, Police Station- Sirgitti, District- Bilaspur (C.G.)
4. Suraiya Khatun W/o Ahsan Rais R/o - L 127, Yadunandan Nagar Tifra, Police Station- Sirgitti Bilaspur, District- Bilaspur (C.G.)  
(Complainant)

**...Respondent(s)**

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For Petitioner	:	Mr. Ali Afzal Mirza, Advocate.
For Respondents/State	:	Mr. S.S. Baghel, Deputy Government Advocate.
For Respondent No. 4	:	Mr. Vikas Kumar Pandey, Advocate.

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Bibhu Datta Guru, Judge**

**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**16.06.2025**

1. Heard Mr. Ali Afzal Mirza, learned counsel for the petitioner. Also heard Mr. S.S. Baghel, learned Deputy Government Advocate, appearing for respondents No. 1 to 3/State and Mr. Vikas Kumar Pandey, learned counsel, appearing for respondent No. 4.
2. The present petition has been filed by the petitioner with the following prayers:

*“10.1 That, this Hon'ble Court may kindly be pleased to call for the entire record concerning the case of the petitioner from the possession of the respondent authorities for its kind perusal.*

*10.2 That this Hon'ble Court may kindly be pleased to quash the FIR bearing Crime No. 253 of 2024, dated 29.03.2024 registered at Police Station – Sirgitti, District Bilaspur (C.G.) against the petitioner for the offence punishable under Sections 498-A and 34 of the IPC (Annexure P/1) and consequently, for quashment of the entire criminal proceedings if any arising there from.*

*10.3 Any other relief or relief(s) which this Hon'ble Court may deem fit or proper in the facts and circumstances of the case.”*

3. Brief facts of the case are that on 19.02.2015, the respondent No. 4/complainant got married to the present petitioner as per Muslim Rites & Rituals and from the wedlock she gave birth to two children (Son named Faraz Ahsan and a daughter named Hanifa Fatma @ Zaira). That after 03-04 month of marriage the present petitioner started harassing her and made multiple attempts to throw the complainant out of the house, during that period the present petitioner had illicit relationship with another lady due to which he stopped living with the respondent no. 4/complainant. As the present petitioner was working abroad and for almost a year he used to stay out for work. During that period the son of her Aunt in law Asif Khan who was in coalition with the present petitioner and who was residing abutting to her matrimonial house and used to come to her house frequently where she was living with her 70 years old mother-in-law and children and they used to talk and they develop friendship and fell in love with the co-accused Asif Khan. He with the intention to defame her started coming to her house, so that the petitioner would divorce her and defame her. The present petitioner along with co-accused Asif Khan used to threaten her by saying that they would get her obscene video viral. The accused persons used to threatened her often on phone which was causing mental harassment, hence she has filed a report for initiating action against the present petitioner and co-accused Asif Khan as she does not want any reconciliation proceedings with them. On the report the FIR has been registered against the present petitioner and co-accused Asif Khan for the offences punishable under Sections 498-A and 34 of IPC bearing Crime No. 253 of 2024 at Police Station Sirgitti, District Bilaspur (C.G.).

4. Learned counsel for the petitioner submits that the marriage of the petitioner with the respondent No. 4/complainant took place on 19.02.2015 at Faizabad. At that time the petitioner was working at Ambala and thereafter, he started working at Gaziyabad and was living happily with his children Hanifa Fatma @ Zaira presently aged about 8 years and Faraz Ahsan presently aged about 4.5 years, thereafter, he came to Faizabad in November, 2018 and started working there. On account of Covid Pandemic he was facing difficulty in his job, so he went to South Africa as he got a good job there and joined in February 2020. In July, 2021 he came to India and thereafter, again after his leave he returned to Africa in August 2021.

5. It is further submitted by the learned counsel for the petitioner that as Cancer was detected in the reports of his father, he came to India on 21.02.2022 and got him treated in Bhatiya Hospital Mumbai, he stayed with the family till 14.06.2022 and thereafter, return to Africa and again when his father got serious, he started coming frequently to Mumbai and then returning to Africa, thereafter, his father died on 08.07.2023 and it is during that period the respondent No. 4/complainant developed intimacy and asked for TALAK by sending whatsapp messages on 22.01.2024 and when he enquired from her she informed about the relationship and accepted that she is in love with co-accused Asif Khan and does not want to live with him. He also submits that when the present petitioner came to Faizabad on 01.03.2024, the co-accused Asif Khan the respondent No.4/complainant accepted their affair which was since 2022. The present petitioner tried to make her understand that any of her decision would ruin the life of their two small children, but she was adamant not to

continue with her matrimonial life with the present petitioner. She posted some intimate pictures on instagram as well as on her whatsapp status, which on account of mistake of co-accused Asif Khan circulated in the whole family. After receiving this information the petitioner tried to contact to respondent No. 4/complainant and her family members, but all in vain. Thereafter, the petitioner returned to Africa on 01.06.2024 and on 17.06.2024 he received call of Sirgitti Police and was informed about the FIR registered against him under Section 498-A and 34 of the IPC. The petitioner thereafter came to Bilaspur and went to the Police Station for co-operating with the investigation.

6. It is further contended by the learned counsel for the petitioner that the allegations made in the FIR are manipulative and has been exaggerated by the complainant in order to implicate the petitioner in the false case. He also contended that the if the allegations as well as the contents of the FIR and charges are considered then also the offence levelled against the petitioners is not made out. He would submit that the petitioner had already been released on personal bond by the concerned Police Station.

7. Learned counsel for the petitioner further states that an act to constitute offence, the allegation should demonstrate the intention and act of the present petitioner towards the respondent No. 2, as the petitioner has never done any such act which falls under definition of Section 498A/34 of the IPC. He also states that no specific act of the petitioner has been attributed in the FIR and the petitioner has been implicated in crime in question only on the basis of vague, general and omnibus type statement of the complainant/wife with intent to harass the petitioner,

therefore, the impugned FIR lodged against the petitioner is liable to be quashed. Hence, this petition.

**8.** On the other hand, learned State counsel opposes the prayer made by the learned counsel for the petitioner and would submit that once the FIR has been registered, it has to be investigated and taken to its logical end. Thus, the present petition is liable to be dismissed.

**9.** Learned counsel, appearing for respondent No. 2/complainant, would submit that there are serious allegations against the petitioner for treating respondent No. 2 with cruelty. He would further submit that all submissions raised on behalf of the petitioner relate to question of fact, that can be considered during the course of investigation and that cannot be considered at this stage, as such, it is the case where the petition deserves to be dismissed.

**10.** Learned counsel for the parties submits that in compliance of the Court's order dated 28.04.2025, the matter has been referred to the Medication Center of this Court for amicable settlement between petitioner/husband and respondent No. 2/wife, but both the parties are not ready to compromise the matter and to settle their dispute. Hence, the mediation has failed.

**11.** We have heard learned counsel for the parties and perused the material available on record including the impugned FIR.

**12.** 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 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short, 'BNSS') or under Section 482 of the Cr.P.C.

13. In the well celebrated judgment reported in **AIR 1992 SC 605 State of Haryana and others vs. Ch. Bhajan Lal**, the Hon'ble 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.”*

14. 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 Hon'ble 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.

**15.** In ***Neharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and others***, reported in **(2021) SCC OnLine SC 315**, the Hon'ble Apex Court 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 of the Cr.P.C. is very wide, but conferment of wide power requires the Court to be cautious. The Hon'ble Apex Court has emphasized that though the Court has the power to quash the FIR in suitable cases, the Court, when it exercises power under Section 482 of the Cr.P.C., only has to consider whether or not the allegations of FIR disclose the commission of a cognizable offence and is not required to consider the case on merit.

**16.** In ***State of Orissa v. Saroj Kumar Sahoo***, reported in **(2005) 13 SCC 540**, it has been held that probabilities of the prosecution version cannot be analysed at this stage. Likewise, the allegations of mala fides of the informant are of secondary importance. The relevant passage reads thus: (SCCp. 550, para 11)

*“11.....It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess*

*the material before it and conclude that the complaint cannot be proceeded with.”*

**17.** From the above stated case laws it is apparent that the above stated contentions raised by the learned counsel for the petitioner cannot be examined by this Court. The adjudication of questions of facts and appreciation of evidence or examining the reliability and credibility of the version, does not fall within the arena of jurisdiction under Section 528 of the BNSS or Section 482 of the Cr.P.C. In view of the material on record, it cannot be held that the impugned criminal proceedings are manifestly attended with malafide 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.

**18.** Further, from the perusal of impugned FIR, it transpires that the complainant was married to Ahsan Rais, resident of Pipra Tal, Faizabad, Uttar Pradesh, on 19.02.2015. They have two children, a son named Faraz and a daughter named Zaira. After three to four months of their marriage, her husband started harassing her and made several attempts to throw her out from the house. During this period, husband of the complainant had an illicit relationship with another women and used to stay away from her for work. Meanwhile, her husband's cousin, Asif Khan, who resides in the adjacent house, would frequently visit their house and develop a close friendship with the complainant. Over the time, their friendship turned into a romantic relationship. However, husband of the complainant and Asif Khan, with an intention to defame her and getting

her divorced, started threatening the complainant, stating that they would circulate her obscene video in social media. They would call her multiple times a day, threatening her and causing her mental harassment.

**19.** In view of the above, it cannot be said that no cognizable offence is made out against the petitioner, therefore, the present petition does not fall in any of such category, wherein, this Court can exercise jurisdiction under Article 226 of the Constitution of India to quash the impugned FIR. Hence, no ground exists for quashing of the FIR.

**20.** Accordingly, the present petition is **dismissed**.

**Sd/-  
(Bibhu Datta Guru)  
Judge**

**Sd/-  
(Ramesh Sinha)  
Chief Justice**