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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No.332 of 2020

Order reserved on: 9-11-2020

Order delivered on: 14-12-2020

Dr. Santosh Kumar Patel (Wrongly mentioned as Dr. Santosh Patel in F.I.R.), S/o Shri Parmanand Patel, Aged about 44 years, Medical Officer, Community Health Centre, Malkharoda, R/o Hospital Colony, Malkharoda, Police Station Malkharoda, Civil & Revenue District Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Department of Home, Mahanadi Bhawan, Atal Nagar, Raipur (C.G.)

2. Officer-in-Charge, Police Station Malkharoda, Civil & Revenue District Janjgir-Champa (C.G.)

3. Abdul Safik Khan, Officer-in-Charge, Police Station Malkharoda, Civil & Revenue District Janjgir-Champa (C.G.)

4. Chief Medical and Health Officer, District Janjgir-Champa (C.G.)

5. Dr. Katyayani Singh, Block Medical Officer, Community Health Centre, Malkharoda, Civil & Revenue District Janjgir-Champa (C.G.)

---- Respondents

For Petitioner: Mr. Devesh G. Kela, Advocate.
For Respondents No.1, 2 and 4 / State: -
Mr. Jitendra Pali, Deputy Advocate General.
For Respondent No.3: -
Mr. Ravindra Agrawal, Advocate.
For Respondent No.5: -
None present.

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. The petitioner herein seeks quashment of FIR No.165/2020, registered at Police Station Malkharoda for the offence

punishable under Section 188 of the IPC and Section 56 of the Disaster Management Act, 2005 on the following factual backdrop :–

2. The petitioner is a Medical Officer appointed on 18-9-2018 by the State Government and he was posted at Community Health Centre, Malkharoda and thereafter, he joined and started working on the post of Medical Officer. Dr. K.L. Uraon, who was holding the substantive post of Block Medical Officer (BMO), was transferred to some other place and thereafter, Dr. Krishna Sidar was given the charge of the said post of BMO, but thereafter, on 17-1-2020, respondent No.5 was given the charge of the post of BMO. Respondent No.5 by order dated 22-4-2020 directed the petitioner to vacate the Government quarter G-1, which he was occupying since 9-9-2019, holding it to be earmarked for the residence of BMO which the petitioner suitably replied, but that turned out to a dispute between them and it continued. Meanwhile, by order dated 8-6-2020 (Annexure P-8), respondent No.5 directed the petitioner to join duty in the Isolation and COVID Ward of District Hospital, Janjgir and also submit himself for training, but he could not join on account of personal difficulty, as his daughter became unwell for which he was issued show cause notice vide Annexure P-11 on 9-6-2020, but ultimately, when he could not join his duty, the impugned FIR was registered at the instance of respondent No.5 – in-charge BMO, stating that pursuant to the order of the Chief Medical & Health Officer – respondent No.4, he was directed to join duty at Isolation and

COVID Ward of District Hospital, Janjgir, but he failed to report on 11-6-2020 and non-joining of duty at the Isolation and COVID Ward of District Hospital, Janjgir during the time of pandemic COVID-19 is a gross omission and negligence in performance of duty and therefore action be taken against him for his act / omission in not joining duty at the District Hospital, Janjgir pursuant to which offence punishable under Section 188 of the IPC and Section 56 of the Disaster Management Act, 2005 (for short, 'the Act of 2005') has been registered against him.

3. This writ petition principally seeks quashment of FIR on the ground that for the offence punishable under Section 56 of the Act of 2005, cognizance can be taken only on the complaint in writing that too by specified officer mentioned in Section 60(a) of the Act of 2005 and further, previous sanction for prosecution from the competent authority is required under Section 59 of the Act of 2005 and also, for offence punishable under Section 188 of the IPC, no FIR can be registered, as registration of FIR and cognizance of offence punishable under Section 188 of the IPC is barred by Section 195(1)(a)(i) of the Code of Criminal Procedure, 1973 (for short, 'the Code'). It is purely a service dispute which has been given the colour of criminal offence taking the umbrella of COVID-19 which is absolutely unsustainable and as such the FIR deserves to be quashed.

4. Reply has been filed by respondents No.1, 2 and 4 / State as well as by private respondent No.3 stating inter alia that the

petitioner failed to join duty at the COVID ward of District Hospital, Janjgir which is clearly an act of disobedience of the order of the competent authority and since Section 188 of the IPC is cognizable offence, offence punishable under Section 188 of the IPC has rightly been registered against the petitioner and even otherwise, Section 56 of the Act of 2005 is attracted in view of the fact that the pandemic COVID-19 situation comes within the meaning of disaster as defined under the Act of 2005, therefore, offence punishable under Section 56 of the Act of 2005 has rightly been taken cognizance of by the police. As such, the writ petition deserves to be dismissed. Similar stand has also been taken by respondent No.3.

5. Mr. Devesh G. Kela, learned counsel appearing for the petitioner, would submit that the FIR registered against the petitioner, who is a Medical Officer, for the above-stated offences is nothing but sheer abuse of the process as it is a simple service dispute of small magnitude between two officers which has been given the colour of criminal offence merely to harass the petitioner who was performing his duty with utmost satisfaction of the higher officer. He would further submit that for the offence punishable under Section 188 of the IPC, no FIR can be registered in view of the provision contained in Section 195(1)(a)(1) of the Code which clearly bars the prosecution of offence punishable under Section 188 of the IPC except on the complaint in writing of the public servant concerned or of some other public servant

to whom he is administratively subordinate. Even otherwise, Section 59 of the Act of 2005 clearly bars prosecution for offences punishable under Sections 55 and 56 except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government. Likewise, Section 60 of the Act of 2005 states that no court shall take cognizance of an offence under this Act except on a complaint made by the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be. As such, registration of offences as stated above and further investigation is clearly barred and the FIR deserves to be quashed.

6. Mr. Jitendra Pali, learned Deputy Advocate General appearing on behalf of the State / respondents No.1, 2 & 4, and Mr. Ravindra Agrawal, learned counsel appearing for respondent No.3, would support the allegation made in the FIR against the petitioner and would submit that the petitioner has failed to join duty in the COVID Hospital which is an essential service, as the medical services have been held to be essential services by order dated 28-3-2020 (Annexure R-1) issued by the State Government. Therefore, offences punishable under Sections 188 of the IPC and 56 of the Act of 2005 have rightly been registered against the petitioner. As such, the writ petition deserves to be dismissed.

7. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.

8. The first question for consideration would be, whether FIR can be registered for offence punishable under Section 188 of the IPC and whether such an offence can be investigated by the police officer in view of the provision contained in Section 195(1)(a)(i) of the Code?

9. In order to decide the dispute, it would be appropriate to notice the definition of "cognizable offence" contained in Section 2(c) of the Code which states as under: -

> "(c) "cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;"

Section 2(d) of the Code defines "complaint". It states as under: -

> "(d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.
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> *Explanation*.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;"

Section 2(h) of the Code defines "investigation" which is as follows: -

> "(h) "investigation" includes all the proceedings

> under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;"

"Police report" is defined in Section 2(r) of the Code which is as under:-

> "(r) "police report" means a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173;"

10. Chapter XII of the Code states about information to the police and their powers to investigate. Section 154 of the Code speaks about information in cognizable cases. Sub-section (1) of Section 154 provides that every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf. Section 155 deals with information as to non-cognizable cases and investigation of such cases. Section 156 enumerates police officer's power to investigate cognizable case. Section 173 provides for report of police officer given on completion of investigation. Section 190 provides for cognizance of offences by Magistrates. Section 195 prohibits the Court from taking cognizance of the offences mentioned therein except on the complaint in writing by the persons named

therein.

11. At this stage, it would be appropriate to notice Section 195(1)(a)(i) of the Code which states as under: -

> **"195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.**—(1) No Court shall take cognizance—
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> (a)(i) of any offence punishable under Sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or
>
> (ii) xxx xxx xxx
>
> (iii) xxx xxx xxx
>
> except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;"

12. The object of the above-stated provision is to protect persons from being needlessly harassed by vexatious prosecutions in retaliation. It is a check to protect innocent persons from criminal prosecution which may be activated by malice or ill will.

13. The Supreme Court in the matter of **Ushaben v. Kishorbhai Chunilal Talpada and others**[1] referring to the Explanation appended to Section 2(d) of the Code, clearly held that a report made by a police officer after investigation of a non-cognizable offence is to be treated as a complaint and the officer by whom such a report is made is to be deemed to be the complainant.

14. In the matter of **Chittaranjan Das v. State of West Bengal and**

1 (2012) 6 SCC 353

others[2], the Calcutta High Court has held that the words "it does not include a police report" in Section 2(d) of the Code refers to report under Section 173 of the Code after completion of investigation, not any other report by police officer.

15. Similarly, the Karnataka High Court in the matter of **Chandrasha and others v. The State**[3] has also held that charge-sheet on a cognizable offence is not complaint, it is police report.

16. In the matter of **Dr. Apurva Ghiya v. State of Chhattisgarh and others**[4], this Court after noticing the judgments of the Supreme Court in the matters of **Basir-ul-Huq and others v. The State of West Bengal on the complaint of Dhirendra Nath Bera**[5], **Daulat Ram v. State of Punjab**[6], **Govind Mehta v. The State of Bihar**[7], **C. Muniappan and others v. State of Tamil Nadu**[8], **Babita Lila and another v. Union of India**[9], **State of U.P. v. Mata Bhikh and others**[10], **Sachida Nand Singh v. State of Bihar**[11], **M.S. Ahlawat v. State of Haryana and another**[12], **Jeewan Kumar Raut and another v. Central Bureau of Investigation**[13], **Saloni Arora v. State of NCT of Delhi**[14] and

2 AIR 1963 Cal 191
3 1989 Cri. L.J. NOC 97 (Kant.)
4 AIR OnLine 2020 Chh 1192
5 AIR 1953 SC 293
6 AIR 1962 SC 1206
7 AIR 1971 SC 1708
8 (2010) 9 SCC 567
9 (2016) 9 SCC 647
10 (1994) 4 SCC 95
11 (1998) 2 SCC 493
12 AIR 2000 SC 168
13 (2009) 7 SCC 526
14 AIR 2017 SC 391

Union of India v. Ashok Kumar Sharma and others[15] and also the decision of the Madras High Court in the matter of **Jeevanandham and others v. State and another**[16], held that no FIR can be registered under Section 154 of the Code for alleged commission of offence under Section 188 of the IPC by observing as under: -

> "30. From a conspectus of the aforesaid judgments rendered by their Lordships of the Supreme Court (supra) and the Madras High Court (supra), it is quite vivid that in order to prosecute an accused for the offence punishable under Section 188 of the IPC, it is imperative to undergo the procedure envisaged under Section 195(1)(a)(i) of the Code i.e. complaint in writing of public servant concerned or some other public servant to whom he is subordinate, otherwise cognizance of offence under Section 188 of the IPC cannot be taken and if this imperative procedure is not complied with, the entire prosecution for offence under Section 188 of the IPC would be rendered *void ab initio*, as Section 195 of the Code is an exception to the general rule contained in Section 190 of the Code wherein any person can set the law in motion by making complaint. The provisions of Section 195 of the Code are mandatory and non-compliance with it will make the entire process *void ab initio* and without jurisdiction as well. As such, since cognizance of offence under Section 188 of the IPC can be taken on the basis of complaint in writing filed by the public servant concerned within the meaning of Section 2(d) of the Code, offence under Section 188 of the IPC being cognizable offence is not also saved by Explanation appended to Section 2(d) of the Code, as by Explanation to Section 2(d) of the Code, report made by police officer after investigation of non-cognizable offence is only to be treated as complaint and person making the complaint is to be treated as complainant and police report or FIR is not a complaint and further, charge-sheet is a report of police officer. Therefore, the

15 Criminal Appeal No.200 of 2020, decided on 28-8-2020
16 2019(1) MLJ (Cri) 36

first information report also cannot be registered under Section 154 of the Code for offence under Section 188 of the IPC, as registration of FIR after investigation would culminate into police report under Section 173(8) of the Code which cannot be taken cognizance of by the Magistrate under Section 190 of the Code, as such registration of FIR for offence under Section 188 IPC is barred."

17. In **Dr. Apurva Ghiya** (supra), this Court also repelled the submission of the State counsel that merely because the offence punishable under Section 188 of the IPC is cognizable offence, FIR has rightly been registered by the police, by holding as under: -

> "31. At this stage, the submission of learned State counsel that since the offence punishable under Section 188 of the IPC is a cognizable offence, therefore, police is duty bound to register FIR under Section 154 of the Code immediately on information as held by the Supreme Court in the matter of *Lalita Kumari v. Government of Uttar Pradesh and others*[17] and to proceed to investigate as provided under Sections 156(3) & 157 of the Code, deserves to be noticed. Such a submission is not acceptable, because, merely because the offence under Section 188 of the IPC is cognizable offence, that by itself does not authorise the police officer to register FIR under Section 154 of the Code for such offence, the reason being that the registration of FIR would necessarily result in submission of police report under Section 173(8) of the Code which is specifically barred by Section 195(1)(a) read with Section 2(d) of the Code. The definition of "complaint" contained in Section 2(d) of the Code makes it clear that complaint does not include a police report. Their Lordships of the Supreme Court in *Ashok Kumar Sharma's* case (supra), in the light of Section 32 of the Drugs and Cosmetics Act, 1940, held that the principles laid down in *Lalita Kumari* (supra) could not be applicable to registration of FIR for offence under the Drugs and Cosmetics Act, 1940 and observed as under: -

17 (2014) 2 SCC 1

> "66. We would think that this Court was not, in the said case, considering a case under the Act or cases similar to those under the Act, and we would think that having regard to the discussion which we have made and on a conspectus of the provisions of the CrPC and Section 32 of the Act, the principle laid down in *Lalita Kumari* (supra) is not attracted when an information is made before a Police Officer making out the commission of an offence under Chapter IV of the Act mandating a registration of a FIR under Section 154 of the CrPC."

As such, the argument raised in this behalf by the learned State Counsel deserves to be rejected following the principle of law laid down in this behalf by their Lordships of the Supreme Court in *Ashok Kumar Sharma's* case (supra)."

18. Thus, in view of the aforesaid legal analysis, it is quite vivid that the respondents / State is absolutely unjustified in registering the first information report for the offence punishable under Section 188 of the IPC. As such, registration of FIR against the petitioner for the offence punishable under Section 188 of the IPC deserves to be quashed.

19. The FIR has been registered against the petitioner also for the offence punishable under Section 56 of the Act of 2005. Section 56 of the Act of 2005 provides as under: -

> "**56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.**—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine."

20. The above-stated offence under Section 56 of the Act of 2005 is punishable with imprisonment for a term which may extend to one year or with fine. According to the First Schedule of the Code which deals with Classification of Offences, Offences under the Indian Penal Code have been mentioned in Part I, whereas Part II relates to Classification of offences Against Others Laws in which offences punishable with imprisonment for less than 3 years or with fine only would be non-cognizable and would be bailable and it would be triable by any Magistrate.

21. Now, at this stage, it would be appropriate to notice the provisions contained in Section 59 of the Act of 2005 which provides as under: -

> "**59. Previous sanction for prosecution.**—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government."

22. A careful perusal of the aforesaid provision would show that no prosecution for offences punishable under Sections 55 and 56 of the Act of 2005 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or by any officer authorised in this behalf, by general or special order, by such Government. In Section 59 of the Act of 2005, the word employed is "prosecution". The word "prosecution" has been defined in Black's Law Dictionary which states as under: -

> "**prosecution**. 1. The commencement and carrying out of any action or scheme the prosecution of a long, bloody war. 2. A criminal proceeding in which an accused person is tried the conspiracy trial involved the prosecution of seven defendants – Also termed *criminal prosecution*."

23. The above-stated definition of the word "prosecution" in Black's Law Dictionary has been noticed by the Supreme Court in the matter of **Jasbir Singh v. Vipin Kumar Jaggi and others**[18].

24. Likewise, the Supreme Court in the matter of **Thomas Dana v. State of Punjab**[19], with reference to Article 20 of the Constitution of India, considered the meaning of words "prosecute" and "prosecution" as under: -

> "10. It is, therefore, necessary first to consider whether the petitioners had really been prosecuted before the Collector of Customs, within the meaning of Art. 20(2). To "prosecute", in the special sense of law, means, according to Webster's Dictionary,
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> > "(a) to seek to obtain, enforce, or the like, by legal process; as, to prosecute a right or a claim in a court of law. (b) to pursue (a person) by legal proceedings for redress or punishment; to proceed against judicially; esp., to accuse of some crime or breach of law, or to pursue for redress or punishment of a crime or violation of law, in due legal form before a legal tribunal; as, to prosecute a man for trespass, or for a riot."
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> According to "Wharton's Law Lexicon", 14th edn., p. 810, "prosecution" means "a proceeding either by way of indictment or information, in the criminal courts, in order to put an offender upon his trial. In all criminal prosecutions the King is nominally the prosecutor." This very question was discussed by this Court in the case of Maqbool Hussain v. State of Bombay, 1953 SCR 730 at pp. 738, 739, 743 : (AIR

18 (2001) 8 SCC 289
19 AIR 1959 SC 375

1953 SC 325 at pp. 328, 329, 330), with reference to the context in which the word "prosecution" occurred in Art. 20. In the course of the judgment, the following observations, which apply with full force to the present case, were made:-

> "... and the prosecution in this context would mean an initiation or starting of proceedings of a criminal nature before a court of law or a judicial tribunal in accordance with the procedure prescribed in the statute which creates the offence and regulates the procedure."

25. Similarly, the Supreme Court in the matter of **General Officer Commanding, Rashtriya Rifles v. Central Bureau of Investigation and another**[20], while considering Section 7 / Section 6 of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 (which provides that criminal proceeding shall not be instituted except with the previous sanction of the Central Government), has defined the words "prosecution" and "institution" of a criminal proceeding as under: -

> "28. "Prosecution" means a criminal action before a court of law for the purpose of determining "guilt" or "innocence" of a person charged with a crime. ...
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> 41. Thus, in view of the above, it is evident that the expression "institution" has to be understood in the context of the scheme of the Act applicable in a particular case. So far as the criminal proceedings are concerned, "institution" does not mean filing; presenting or initiating the proceedings, rather it means taking cognizance as per the provisions contained in CrPC."

26. Thus, following the principle of law laid down by their Lordships of the Supreme Court in **General Officer Commanding, Rashtriya Rifles** (supra), the word "institution" of criminal case would mean taking cognizance of the

20 (2012) 6 SCC 228

offences as provided under the Code of Criminal Procedure, 1973.

27. Thus, in order to prosecute a person for offence under Section 56 of the Act of 2005 or to say for taking cognizance of the above-stated offence(s), previous sanction of the competent authority named in Section 59 of the Act of 2005 would be absolutely necessary as the provision contained in Section 59 of the Act of 2005 is mandatory.

28. At this stage, it would be pertinent to notice Section 60 of the Act of 2005 which states as under: -

> "**60. Cognizance of offences**.—No court shall take cognizance of an offence under this Act except on a complaint made by—
>
> (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or
>
> (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid."

29. A careful perusal of Section 60 of the Act of 2005 would show that this provision provides two conditions precedent for taking cognizance of the offences under this Act,

(1) That, complaint in writing has to be filed before the jurisdictional criminal court for the offences under the Act of 2005.

(2) That, complaint has to be filed by the persons named in clauses (a) and (b) of Section 60 of the Act of 2005.

Thus, for the offence committed under the Act of 2005, the Court shall take cognizance only on the complaint filed by the authorities named in Section 60(a)(b) of the Act of 2005.

30. Thus, from the above-stated legal analysis, it is quite vivid that if a person has committed an offence under Section 56 of the Act of 2005, prosecution can be launched against him by a specified person / authority named in Section 60(a)/(b) of the Act, that too by filing complaint in writing as defined under Section 2(d) of the Code and in that complaint filed by the specified person / authority, cognizance of offence under the Act of 2005 can be taken only if previous sanction has already been granted by the competent authority under Section 59 of the Act. If any of these conditions precedent are missing, the Court would have no jurisdiction to take cognizance of the said offence under Section 56 of the Act of 2005.

31. The offence punishable under Section 56 of the Act of 2005 is non-cognizable offence, as provided in the First Schedule of the Code of Criminal Procedure, 1973 being punishable with imprisonment for one year, no investigation is permitted by police officer without an order of the Magistrate as contemplated by Section 155(2) of the Code and benefit of Section 155(4) of the Code is not available to the State in this case, as it has been held by this Court in the preceding paragraph that though offence under Section 188 of the IPC is cognizable which the petitioner is charged, yet no FIR can be

registered for the said offence under Section 188 of the IPC and only complaint before the jurisdictional criminal court would lie. As such, even for offence under Section 56 of the Act of 2005, being non-cognizable offence, no FIR could have been registered by respondent No.2 against the petitioner. It is *ex facie*, illegal and without authority of law.

32. In the instant case, registration of FIR against the petitioner for offence under Section 56 of the Act of 2005 is bad, as no FIR for the said non-cognizable offence could be registered and for offence under Section 56, only complaint can be filed by the specified authority / person named in Section 60(a)/(b) of the Act, that too cognizance can be taken by the jurisdictional criminal court only if previous sanction has already been granted by the competent authority under Section 59 of the Act of 2005. As such, FIR for the said offence by respondent No.5 who has not been authorised under Section 60(a) of the Act is totally unauthorised, that too with regard to some service dispute between the petitioner and respondent No.5.

33. In the matter of **State of Haryana and others v. Bhajan Lal and others**[21], the Supreme Court laid down the parameters in paragraph 102 of its report for quashing criminal proceeding / FIR exercising jurisdiction under Article 226 of the Constitution of India or under Section 482 of the Code, relevant portion of which states as under: -

> "102. In the backdrop of the interpretation of the

21 1992 Supp (1) SCC 335

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) to (5) xxx xxx xxx

(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) xxx xxx xxx"

34. **Resultantly, it is held that for the offence punishable under Sections 188 of the IPC and 56 of the Act of 2005, no FIR can be registered under Section 154 of the Code in the light of the legal analysis and discussion made herein-above. Accordingly, FIR No.165/2020 dated 11-6-2020 registered against the petitioner by Police Station Malkharoda, Distt. Janjgir-Champa for the offences punishable under Sections 188 of the IPC and 56 of the Act of 2005 is hereby quashed following the decision of the Supreme Court in Bhajan Lal's case (supra).**

35. **The writ petition is allowed to the extent sketched herein-**

above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No.332 of 2020

Dr. Santosh Kumar Patel

Versus

State of Chhattisgarh and others

Head Note

FIR cannot be registered for commission of offence punishable under Section 56 of the Disaster Management Act, 2005.

आपदा प्रबंधन अधिनियम, 2005 की धारा 56 के अधीन किए गए दण्डनीय अपराध हेतु प्रथम सूचना प्रतिवेदन दर्ज नहीं की जा सकती है।