

(2023) 03 CHH CK 0019

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition No. 522 Of 2023

Kasim Ali

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 10-03-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 294, 307, 323, 498, 506
Code Of Criminal Procedure, 1973 — Section 155, 482

Citation : (2023) 03 CHH CK 0019

Hon'ble Judges : Deepak Kumar Tiwari, J

Bench : Single Bench

Advocate : Punit Ruparel, M. Asha

Final Decision : Dismissed

Judgement

1. This Petition has been filed under Section 482 of Cr.P.C. for quashing FIR No.195/2023, dated 23.02.2023 registered against the Petitioner at PS Civil Lines, District Bilaspur for the offence under Sections 294, 323 and 506 IPC.

2. Brief facts of the case are that the Petitioner and Respondent No.2 are husband and wife, whose marriage was solemnized in the year 2018 as per the Muslim rites and customs and out of the said relation, 2 children were born to them. Respondent No.2/wife had lodged FIR on 23.02.2023 qua the Petitioner alleging that she was subjected to abuse in filthy language and also threatened to be killed by him, therefore, the offence as aforesaid has been registered against him.

3. Shri Ruparel, learned Counsel for the Petitioner submits that in the earlier complaint made by the wife, the offence under Sections 307 & 498-/34 IPC was registered against the Petitioner for the incident dated 17.05.2021 and the 8th Additional Sessions Judge, Bilaspur, vide judgment dated 31.01.2023 passed in Sessions Trial No.269/2021, as the material witness has turned hostile, had acquitted the Petitioner from the charges levelled against him under the said

Sections. He further submits that after passing of the said judgment, just within 23 days, the present FIR has been lodged in which, only mother and father of Respondent No.2 have been mentioned as witnesses, who were the witnesses in the earlier trial also wherein, they have turned hostile, therefore, a false case has been made out against the Petitioner and the continuation of criminal proceedings against him amounts to abuse of process of law. He lastly submits that on the same day i.e. 23.02.2023, the Petitioner had also given an intimation under Section 155 Cr.P.C to the police station-Civil Lines but no offence has been registered against Respondent No.2. He placed reliance in the matter of Kahkashan Kausar alias Sonam and Others vs. State of Bihar and Others reported in (2022) 6 SCC 599 and prays to quash the impugned FIR. and the consequent criminal proceedings.

4. Per contra, Smt Asha opposed the prayer and submits that there is no bar that when an accused is acquitted in the earlier trial, no complaint can be registered for subsequent cause of action and as the necessary ingredients constituting the offence are present in the impugned FIR, therefore, this is not a fit case for quashment of FIR and the criminal proceedings.

5. I have heard learned counsel for the parties and perused the documents annexed herewith carefully.

6. In view of the submissions made, considering the parameters laid down in the matter of Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others reported in 2021 SCC OnLine SC 315 wherein, it has been held that the police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence and while examining FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability of genuineness or otherwise of the allegations made in the FIR/complaint, this Court does not find any valid ground to quash the said FIR.

7. Accordingly, the Petition being bereft of any merits is hereby dismissed at motion stage.