



2026:CGHC:10214-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 526 of 2026

1 - Vijay Gupta S/o Late Jagdish Prasad Gupta Aged About 50 Years,
R/o Village Bagicha, Thana and Tahsil Bagicha, District - Jashpur
Chhattisgarh

... Petitioner

versus

1 - State of Chhattisgarh Through Station House Officer, Police Station
Bagicha District Jashpur Chhattisgarh

2 - ABC D/o DEF, R/o XYZ

... Respondents

(Cause-title taken from Case Information System)

For Petitioner : Mr. Vikas Kumar Pandey, Advocate.

For State : Mr. Shailendra Sharma, Panel Lawyer.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

27-02-2026

- The present petition has been filed by the petitioner under Section 528 of BNSS, 2023 with the following prayer:-

“It is therefore prayed that, this Hon'ble Court may kindly be pleased to allow this instant petition and quash the order taking cognizance dated 16/12/2025 passed in Sessions Case No.105/2025, passed by Sessions Judge District Jashpur

(C.G.), the Charge Sheet bearing No.206/2025 dated 22/11/2025 and the FIR Bearing No.240/2025 dated 11/10/2025 lodged by the Police Station Bagicha District-Jashpur (C.G.)for commission of offence punishable under Section 336, 376 (2) (n) of IPC and 69 of the BNS, 2023 onand all consequential proceedings, in the interest of justice.”

2. The facts of the case are that, the petitioner is an accused in Sessions Case No. 105/2025 initiated on the charge sheet submitted by police of Police Station Bagicha, District Jashpur (C.G.) for the offence under Section 366, 376(2)(n) of the IPC and Section 69 of BNS, 2023. It is alleged in the written complaint lodged by the respondent No.2 that she is working as sweeper in the primary school and the petitioner/accused is teacher/coordinator in the said school. She is a divorcee lady. The petitioner who is already a married person, allured her for marriage and committed rape upon her on the pretext of marriage on 01-01-2020. Thereafter, he continued in making physical relation with her and subsequently when she asked for marriage, he avoided the same and is not responding her mobile phone calls. The FIR has been registered and after completion of investigation charge sheet has been filed against him.
3. Learned counsel for the petitioner submits that the victim is a major grown up lady who is in service and very well known about her well being. She was well acquainted that the petitioner was

already a married person and therefore, the allegation of making physical relation on the pretext of marriage is suspicious. She continued in relation with the petitioner for about 5 years and in such a long lapse of time, it would not be possible that she was kept under assurance that the petitioner would marry her. She being a consenting party having relationship with the petitioner cannot be subsequently claimed that she was subjected to rape by the petitioner. There is no injury found on the body of the victim in her medical examination. It is only pressure tactics to extort money from the petitioner. The evidence available in charge sheet are not sufficient to proceed against the petitioner/accused in the alleged offence, therefore, the FIR as well as the charge sheet and the order taking cognizance dated 16-02-2025 including the entire proceeding of Sessions Case No.105/2025 may be quashed.

4. Learned counsel appearing for the State opposes and has submitted that from the written complaint made by the victim as well as her statement recorded under Section 161 of the Cr.P.C. as well as her statement and also the statement of other witnesses there is prima facie ingredients of the alleged offence. Whether or not the petitioner allured the victim on pretext of marriage or whether he made consensual physical relation are disputed question of facts which are to be decided after recording of evidence of the victim as well as other witnesses, therefore, there is no ground available to the petitioner for quashing of the FIR as

well as charge sheet and entire proceeding and the present petition is liable to be dismissed.

5. We have heard learned counsel for the parties and perused the material annexed with the petition.
6. From perusal of the written complaint and the statement of the witnesses it clearly reveals that there are allegation that the victim was subjected to sexual intercourse by the petitioner on the pretext of marriage. It further transpires that the petitioner is already married and he developed physical relation with the victim by saying that he will marry her. Whether or not the victim was subjected to sexual intercourse on the pretext of marriage or engaged in consensual physical relation are disputed questions of facts which are to be decided after recording evidence of the prosecution witnesses and cross-examination by the petitioner/accused. At this stage, it cannot be said that the allegation leveled by the petitioner does not demonstrate any prima facie offence to proceed with trial of the case.
7. In **M/s. Neeharika Infrastructure Pvt. Ltd. Vs. The State of Maharashtra & others**, reported in 2021 SCC OnLine SC 315, the Hon'ble Supreme Court in para 23 held as under :-

"23. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 Cr.P.C and/or under Article 226 of the Constitution of India and in what

circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or “no coercive steps to be adopted” during the investigation or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India, our final conclusions are as under:

i) 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;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;”

8. Considering the aforesaid law laid down by the Hon’ble Supreme Court as well as the allegation leveled in the present case by the victim and the material available in the charge sheet we are of the opinion that present is not a fit case in which this Court exercise its discretion to quash the FIR as well as charge sheet, order taking cognizance and the criminal proceeding. Accordingly, the present petition is **dismissed**.

Sd/-

(Ravindra Kumar Agrawal)

Judge

Sd/-

(Ramesh Sinha)

Chief Justice