



2026:CGHC:15814-DB



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRMP No. 903 of 2026**

1 - Jagdish Tiwari S/o Lt. Girijashankar Tiwari Aged About 71 Years R/o Tiwari Timber, Agrasen Chowk, Durg, P.S. Mohan Nagar, District Durg, Chhattisgarh.

2 - Amrita Tiwari D/o Jagdish Tiwari Aged About 34 Years R/o Tiwari Timber, Agrasen Chowk, Durg, P.S. Mohan Nagar, District Durg, Chhattisgarh.

3 - Smita @ Soni Tiwari D/o Jagdish Tiwari Aged About 36 Years R/o Tiwari Timber, Agrasen Chowk, Durg, P.S. Mohan Nagar, District Durg, Chhattisgarh.

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

1 - State Of Chhattisgarh Through Station House Officer, Police Station Mohan Nagar, District Durg, Chhattisgarh.

2 - Sapna Singh Rajput W/o Sanjay Singh Rajput Aged About 47 Years Posted As Woman Constable No. 1292, Police Station Mohan Nagar, District Durg, Chhattisgarh.

... Respondent(s)

For Petitioner(s) : Mr. Shikhar Bakhtiyar, Advocate

For Respondent(s) : Mr. Nitansh Jaiswal, Deputy G.A.



Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

07.04.2026

1. Heard Mr. Shikhar Bakhtiyar, learned counsel for the petitioners.
Also heard Mr. Nitansh Jaiswal, learned Deputy Government Advocate for respondent No.1 / State.
2. The petitioner has filed this petition with the following prayer:

“ A) That this Hon'ble Court may kindly quash and set-a-side the FIR No.118/2025, Dated:27/03/2025, registered with P.S. Mohan Nagar, District Durg for the offence punishable under section 296, 115(2), 132, 221, 121(1), 3(5) of BNS, 2023 registered with P.S. Mohan Nagar, District Durg, Chhattisgarh, in the interest of Justice.

B) That the Hon'ble Court may kindly be pleased to quash the entire charge-sheet in crime no. 118/2025 for the offences u/s 296, 115(2), 132, 221, 121(1), 3(5) of BNS, 2023 filed against the petitioners on dated 26/07/2025 before the Chief Judicial Magistrate, Durg, District Durg, Chhattisgarh, in the interest of justice.

C) That the Hon'ble Court may kindly be pleased to quash the order dated 26/07/2025 whereby the Ld. Chief Judicial Magistrate,



Durg, District Durg in Regular Criminal Case no. 24040/2025 has taken the cognizance and also the further proceedings be quashed in criminal case no. 24040/2025 pending before the Ld. Chief Judicial Magistrate, Durg, District Durg, Chhattisgarh.

D) That any other relief Hon'ble Court deems feet may also be granted."

3. Brief facts necessary for disposal of the case are that petitioner No.1, who is a practicing advocate at Durg, along with other petitioners, has approached this Court being aggrieved by the registration of FIR No.118/2025 dated 27.03.2025 at Police Station- Mohan Nagar, District- Durg for the alleged offences punishable under Sections 296, 115(2), 132, 221, 121(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, which has arisen out of a complaint lodged by a Female Constable of the said police station alleging that on 27.03.2025 a specialized team of ACCU, Durg comprising ASI Gumeshwar Yadav and other police personnel arrived at the police station and, under the directions of the Station House Officer and senior officers, the complainant along with another female constable joined the said team for official duty and proceeded to the residence of one Jagdish Prasad Tiwari at Agrasen Chowk, Durg for making inquiry regarding his son Jatin Tiwari, whereupon it is alleged that during the course of such inquiry the petitioners namely Jagdish Prasad Tiwari and his daughters Amritha Tiwari and Soni alias Smita Tiwari became



aggressive, questioned the authority of the police personnel, used abusive language, and allegedly obstructed the discharge of official duties, including engaging in physical scuffle and tearing of uniform/badge of the police personnel, and further that even upon arrival of the Station House Officer at the spot the alleged conduct continued, following which a written report was lodged at the police station leading to registration of the impugned FIR and subsequent filing of charge sheet, and being aggrieved thereby and contending that the allegations are false, exaggerated and do not disclose commission of any cognizable offence, the petitioners have preferred this present petition seeking quashment of the said FIR and consequential proceedings in the interest of justice.

4. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in the present case, as the allegations contained in the impugned FIR are wholly baseless and do not disclose the commission of any offence. It is further submitted that petitioner No.1, being a practicing advocate at the Durg Bar and well conversant with the law, had merely exercised his legitimate right to inquire about the purpose of the visit of the police party and sought to verify the existence of any lawful authority such as a notice, warrant or case reference concerning his son, which bona fide conduct has been misconstrued and given a criminal colour, and in fact the entire family was forcibly taken to the police station in a high-handed manner to cover up procedural lapses on the part of the



authorities. It is contended that the prosecution case is conspicuously silent regarding the specific official duty or lawful purpose for which the police team had allegedly visited the residence, in absence whereof the essential ingredient of “lawful discharge of official duty” is not satisfied, thereby rendering the allegations of obstruction legally unsustainable; it is further argued that the FIR appears to be an afterthought, as is evident from the glaring discrepancy in timing wherein the medical examination of the complainant was conducted prior to the registration of the FIR, indicating a premeditated and manufactured version of events. Learned counsel further submits that the allegations are inherently improbable and contrary to normal human conduct, inasmuch as it is highly unbelievable that a senior citizen advocate along with two women could physically assault and intimidate a large police team consisting of multiple armed personnel, and the absence of any independent witness from a densely populated residential locality further casts serious doubt on the prosecution story, especially when all cited witnesses are interested police officials. It is also contended that the medical evidence does not disclose any grievous or significant injury so as to attract the stringent provisions invoked, thereby further weakening the prosecution case. It is urged that the essential ingredients of the alleged offences, particularly relating to use of criminal force against a public servant, are not made out as there was no lawful authority under which the police were acting, and moreover, the



prosecution has failed to place on record crucial documents such as duty certificates, departure entries, or General Diary entries, which are mandatory to establish the official nature of the alleged visit, thereby rendering the entire prosecution case doubtful and unsustainable. It is thus submitted that the present FIR is a clear instance of vexatious and malicious prosecution instituted with an oblique motive to harass the petitioners.

5. On the other hand, learned State counsel, in compliance with the order dated 01.04.2026 passed by this Court, submits that the police personnel had entered the house of the petitioners in discharge of their official duties pursuant to oral directions issued by superior authorities for conducting a preliminary inquiry regarding one Jatin Tiwari, son of petitioner No.1, it having come to notice that the said person had allegedly forwarded his mobile number to a government number registered in the name of the Superintendent of Police, District-Durg, thereby causing inconvenience and disruption in official communications, and accordingly, upon recording Daily Diary Entry (Sanha No.31), a team of Anti Crime & Cyber Unit (ACCU), Durg visited the residence of the petitioners on 27.03.2025 solely for the purpose of inquiry and without any malafide intent or personal grudge. It is further submitted that upon reaching the spot and making inquiries about Jatin Tiwari, who was not present at the residence, the petitioners, namely Jagdish Tiwari along with his daughters Amrita Tiwari and Smita Tiwari, instead of cooperating, started



abusing the police personnel in filthy language and further assaulted the complainant constable Sapna Rajput and another constable Sangeeta Pal, causing them simple injuries as duly corroborated by the MLC reports, and in view of such conduct disclosing commission of cognizable offences, the police officers were constrained to register FIR No.118/2025 in accordance with law under the relevant provisions of the Bharatiya Nyaya Sanhita, 2023, and thereafter, upon due investigation, charge-sheet has also been filed. It is thus submitted that the allegations of false implication and procedural illegality as raised by the petitioners are wholly misconceived and denied, inasmuch as the entire action of the respondent authorities has been carried out strictly in accordance with law, without any ill-will or ulterior motive, and the material collected during investigation prima facie establishes the involvement of the petitioners in the alleged offences, and therefore, no ground is made out for quashment of the impugned FIR or the consequential proceedings.

6. We have heard learned counsel for the parties and perused the documents appended with this petition.
7. The Supreme Court in the matter of **State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335** laid down the principles of law relating to the exercise of extraordinary power under Article 226 of the Constitution of India to quash the first information report and it has been held that such power can be



exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. In paragraph 102 of the report, their Lordships laid down the broad principles where such power under Article 226 of the Constitution/Section 482 of the CrPC should be exercised, which are as under: -

“102. In the backdrop of the interpretation of the 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)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 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 155(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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to



its whim or caprice.”

8. Upon due consideration of the submissions advanced and on perusal of the material available on record, this Court finds that it is not in dispute that at the time of the alleged incident there was no FIR, complaint, warrant or any formal proceeding registered against the present petitioners, and the inquiry, as stated by the State, was only in relation to the son of petitioner No.1, namely Jatin Tiwari. Thus, the visit of the police personnel to the residence of the petitioners was admittedly not pursuant to any proceedings against them, and no material has been placed on record to demonstrate any prior authorization in accordance with law insofar as the petitioners are concerned. In such circumstances, the essential requirement of lawful discharge of official duty vis-à-vis the present petitioners, for the purpose of attracting the alleged offences relating to obstruction or use of criminal force against public servants, prima facie appears to be doubtful, and therefore, the allegations in the impugned FIR, even if taken at their face value, do not satisfactorily disclose the commission of the offences as alleged against the petitioners, rendering the continuation of proceedings an abuse of process of law
9. Accordingly, in view of the aforesaid facts and circumstances, this Court is of the considered opinion that continuation of the impugned criminal proceedings against the present petitioners would amount to an abuse of the process of law, inasmuch as no



offence is prima facie made out against them and the essential ingredients of the alleged offences are not satisfied. Hence, the petition deserves to be and is hereby **allowed**, and consequently, FIR No.118/2025 dated 27.03.2025 registered at Police Station- Mohan Nagar, District- Durg, along with all consequential proceedings including the charge-sheet in Criminal Case No. 24040/2025, insofar as it relates to the present petitioners, stands quashed.

10. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Manpreet