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HIGH COURT OF CHHATTISGARH, BILASPUR**Review Petition No. 170 of 2016**

Fredrick Kerketta S/o Late Shri Francis Kerketta, Aged About 53 Years R/o Janakpur, Tahsil Bharatpur, Police Station Janakpur, District Korea, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department Of Home And Police, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The Director General Of Police Chhattisgarh, Police Head Quarter, Raipur, P.S. And Post Rakhi, District Raipur, Chhattisgarh
3. Inspector General Of Police (I G P) Sarguja Range, Sarguja, Chhattisgarh
4. Superintendent Of Police, Korea, District Korea, Chhattisgarh
5. Dhaniram Shukla S/o Shri Rajmani Shukla, Aged About 48 Years R/o Village Ganjar, P.S. Janakpur, District Korea, Chhattisgarh
6. Ramakant Dubey S/o Late Shri Ramnihore Dubey, Aged About 27 Years R/o Village Ganjar, P.S. Janakpur, District Korea, Chhattisgarh
7. Smt. Rambai Wd/o Late Shri Ramnihore Dubey, Aged About 48 Years R/o Village Ganjar, P.S. Janakpur, District Korea, Chhattisgarh

---- Respondents

For Petitioner	: Shri Abhishek Pandey, Advocate.
For Respondent/State	: Shri Arun Sao, Deputy Advocate General.
For Respondent No. 5 to 7	: Shri D.N.Prajapati, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Order on Board**Per Deepak Gupta, Chief Justice****14/12/2016**

1. The review petition is admitted for hearing. With the consent of learned counsel for the parties, the case is being heard and disposed of finally.
2. This review petition is directed against the judgment dated 25.10.2016 delivered by us in Writ Appeal No. 347 of 2016 on the following grounds:

"2. The main ground raised is that the appellant/petitioner has been transferred frequently and has been transferred as many as 7 times in the last two years. Normally, we do expect that a Police Official is kept at one station for at least two years and Police Officer should not be subjected to frequent transfers because that demoralises the Police force. Having said so, each case has to be examined on its own facts. We had called for the record of the case and the record shows that between 15th August 2015 and his transfer on 12th September, 2015, as many as three serious cases were complained before the appellant, but, the appellant had not taken any action nor lodged F.I.R. and in one case it is alleged that he tried to force the victim in a case of rape to compromise the matter with the accused.

3. We are entering into the merits of the illegalities because that is the subject matter of disciplinary proceedings. However, in such circumstances, the Department has no other option but to transfer the appellant/petitioner forthwith. Otherwise, the public will have no faith in the Police system."

3. The main grievance of the Petitioner is that the complaints have been made after issuance of his order of transfer and therefore, the order dated 25.10.2016 is erroneous and may be recalled.

4. The Petitioner now alongwith his review petition has annexed copies of various documents. The transfer order appears to have been issued on 10.09.2015 but it also shows that the same was communicated on 12.09.2015. The Petitioner by the impugned order has been transferred from Police Station Janakpur to Police Line, Baikunthpur. The stand of the Respondent/State was that in view of various complaints made against the Petitioner, he has been transferred and now it has been urged that since these complaints are after 10.09.2015, the stand of the Respondents is not correct.

5. The Petitioner has attached a copy of the complaint dated 10.08.2015 which has been received in the office of the Superintendent of Police, Korla on 11.08.2015. This is much prior to passing of the transfer order and this complaint shows that the complainant alleged that between 30.07.2015 and 06.08.2015, the officer-in-charge of the Police Station Janakpur kept him in the police station for

interrogation and during that period, the complainant was beaten up. It is further complained that after physical beating, forcibly a confession was extracted from him. As far as this complaint is concerned, it is not disputed that this complaint was made and received by the Superintendent of Police much before the order of transfer was issued.

6. There is another complaint dated 26.08.2016 which has been diarized in the office of the Superintendent of Police on 12.09.2015 i.e. two days after the order of transfer was issued but on the same date, when the order of transfer was issued. In this complaint, the complainant has alleged that when she was coming back home, she was subjected to rape and then she went to Janakpur Police Station to lodge a report on the same date i.e. 23.08.2015. The report was not lodged and only the name of the accused was asked and she was asked to come next day to lodge the report. When she and her family members went on the next day, the Officer-in-Charge of Police Station pressurized her to settle the matter with the accused.

7. The third complaint is dated 14.09.2015 and it was diarized on 15.09.2015. In this also, the complaint is that on 14.08.2014, when the complainant was raped and her husband came on the spot and then they went to the Police Station to lodge report on 15.09.2015, the complainant alleges that her version was not properly recorded and she was asked to sign on blank papers.

8. It may be true that the last two complaints have been diarized on 12.09.2015 and 14.09.2015 but these complaints relate to earlier period of August, 2015. These are the actions which must have been brought to the notice of the higher police officials or must have come to their knowledge and merely because the written complaints have been filed at a later stage, wherein one of the complaint has been filed on the previous day, is no ground that the Petitioner should not have been transferred.

9. It is urged by Shri Pandey that as per the transfer policy, a preliminary enquiry should have been conducted into the genuineness of these complaints and then only, the Petitioner should have been transferred.

10. We are not at all in agreement with the submission made by learned counsel for the Petitioner. The transfer policy is in the nature of guidelines only. We are dealing with an incharge of the Police Station against whom allegations have been made by two ladies that though they were raped, when they went to lodge the complaint, their complaints were not recorded. What is worse, one of the lady complains that the incharge of the Police Station tried to force her to compromise with the accused.

11. As far as the third complaint is concerned, that is prior to the date of transfer order and in that complaint, the complainant has alleged that he was illegally detained in the police station for a long period of time and beaten mercilessly. How can a civilized society permit such an officer to remain incharge of the Police Station where such serious allegations are involved. We, on the earlier occasion had desisted from commenting on the merits of the case but the allegations are so serious in nature that such person cannot be permitted to remain incharge of a police station.

12. We therefore find no merit in the review petition. It is dismissed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE