

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 277 of 2016

R.K. Dubey, S/o. Late C.B. Dubey, Aged About 45 Years, R/o. Century Cement Colony, Sec.3, Deen Dayal Upadhyay Nagar, Raipur, District Raipur (Chhattisgarh) Pin 492010, P.S.: Deen Dayal Upadhyay Nagar, Raipur, (Chhattisgarh) .

----Petitioner

Versus

1. Virendra Kumar Devangan, S/o. Late Fatte Lal Devangan, R/o. Behind Dr. Lohana Clinic, Pujari Nagar, Tikara Para Raipur, District Raipur, (Chhattisgarh), Pin 492001, P.S. Tikara Para, Raipur, (Chhattisgarh)
2. State Of Chhattisgarh, Through P.S. Tikara Para, Raipur, District Raipur, (Chhattisgarh)

---- Respondents

For Petitioner	: Mr. Shiv Kumar Shrivastava, Advocate
For Respondent No.1	: Mr. Kashif Shakeel, Advocate.
For State/Resp. No.2	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

31/01/2017

Heard

1. The present petition is filed challenging the Memo dated 22.07.2016 issued by the Judicial Magistrate First Class, Raipur, wherein the S.H.O. Police Station- Tikrapara, Raipur is directed to register an FIR and submit the final report.
2. Learned counsel for the petitioner submits that though the Trial Court by its order dated 22.07.2016 has not directed for registration of FIR, the police has registered the FIR and investigated the matter. He refers to Annexure P-1 which reads that the FIR to be registered and report to be filed on 22.08.2016. The said memo is dated 22.07.2016.

3. Perused the order dated 22.07.2016 which reads that the judicial order was passed by the Magistrate wherein only final report was called for. The same do not speak about registration of the FIR.
4. The State counsel submits that the FIR has not been registered yet. Considering the order that no order was passed for registration of FIR, but memo speaks of direction for registration of FIR, which is contrary to the order dated 22.07.2016, in a result, the memo dated 22.07.2016 which purported to be signed by the Judicial Magistrate First Class, Raipur is quashed.
5. It is expected that the Judicial Magistrate while issuing such memo shall abide by its own order and such type of memo may not be issued in a mechanical manner, which leads embarrassment to the concerned party. If judicial order exists for registration of FIR, the same could have been incorporated. If the judicial order do not contain the registration of FIR, the memo issued by the Court will not take its place of judicial order.
6. In a result, as referred, the memo dated 22.07.2016 i.e. Annexure P-1 is quashed. The police shall abide by the judicial order passed on 22.07.2016 and may proceed to file the final report.
7. With such observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge