

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(Cr.) No. 74 of 2017

Madhukar Dwivedi S/o S. S. Dwivedi, Aged 28 Years R/o Village Sevni, Tahsil Marwahi, District Bilaspur (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through : Secretary, Department Of Home Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (Chhattisgarh).
2. Director General Of Police, State Of Chhattisgarh, Police Head Quarter, Indrawati Bhawan, New Raipur, Raipur (Chhattisgarh).
3. Inspector General Of Police, Bilaspur Range, Bilaspur (Chhattisgarh).
4. Superintendent Of Police, Bilaspur, District Bilaspur (Chhattisgarh).
5. Station House Officer, Police Station Marwahi, Tahsil Marwahi, District Bilaspur (Chhattisgarh).
6. C. Lakra The Then Station House Officer, Police Station Marwahi, Tahsil Marwahi, District Bilaspur (Chhattisgarh), Presently Posted At Police Station Seepat, District Bilaspur (Chhattisgarh).
7. S. R. Sahu, Station House Officer, Police Station Marwahi, Tahsil Marwahi, District Bilaspur (Chhattisgarh).

---- Respondents

For petitioner - Shri Malay Shrivastava, Advocate.
For Respondent/State – Shri Neeraj Jain, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

01/03/2017

1. Heard.
2. Instant petition is filed praying for the following relief:-
 1. That, this Hon'ble Court may kindly be pleased to call for the entire records of FIR bearing crime no.26/2016 registered at Police Station-Marwahi, Tahsil-Marwahi, District-Bilaspur (C.G.)
 2. That, this Hon'ble Court may kindly be pleased to direct the respondent to registered the offence against the accused persons under the provision of Indian Penal Code and Arms Act as per the

written report of the petitioner dated 02/02/2015.

3. That, this Hon'ble Court may kindly be pleased to direct the respondent to conclude the investigation within a stipulated time framed by this Hon'ble Court.

4. That, this Hon'ble Court may kindly be pleased to direct the respondents to take action against the officer who are failed to discharge official duties as per the law.

5. That, this Hon'ble Court may kindly to direct the respondents to provide proper protection to the petitioner and the family members of the petitioner from the accused persons.

6. That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case.

7. That, this Hon'ble Court may kindly be pleased to grant cost of the petition.

3. This is second round of litigation. Earlier the petitioner had filed W.P. (Cr.) No. 63/2015 wherein coordinate bench of this court by an order dated 21/12/2015 has directed the police to investigate the matter in accordance with law laid down by the Supreme Court in Lalita Kumari and submit a report before the competent criminal court.

4. During the argument it is submitted that after registration of the FIR petitioner received a notice from the police station which would show that offence is registered in Crime No.26/2016 under Sections 147, 148, 149, 336 and 506 of IPC and he has been asked to appear to record his statement. Learned counsel for the petitioner would submit that registration of the offence under Section 336, 506 read with section 147, 148, 149 IPC would show that fair investigation is not being carried out. Therefore, police be directed to register case as per FIR which is made by

the petitioner by Annexure P-1 dated 2/02/2015.

5. Perused the notice Annexure P-3 which purports that crime under the Crime No.26/2016 is registered and offence has been registered under Sections 147, 148, 149, 336 and 506 of IPC and the petitioner has been asked to make his statement. Without recording of the statement, at this stage it would be completely improbable and presumptive that investigation is not being carried out properly. Petitioner, if he is serious enough, may get his statement recorded stating the entire fact. Thereafter, police and concerned authority may examine under which section the case would fall.

6. Taking into such fact the petitioner has already been asked to appear in person to record his statement and without recording his statement proper investigation cannot be carried out, this petition filed under apprehension appears to be premature and presumptive and is without any merit.

7. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE