

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(CR) No. 162 of 2014**

Babita W/o Shri Ramkhilawan Aged About 40 Years R/o Azad
Nagar 750, Qtr No. 53/736, Post Godripara P.S. Chirmiri Distt.
Korea C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary department of Home, Mahanadi Mantralaya Bhawan, New Raipur, C.G.
2. Inspector General of Police, Sarguja Range, Ambikapur Distt. Sarguja C.G.
3. Superintendent of Police, Baikunthpur Distt. Korea C.G.
4. City Superintendent of Police Chirmiri Distt. Korea C.G.
5. B.R. Tandon Aged About 50 Years Station House Officer Police Station Chirmiri Distt. Korea C.G.
6. Mr. C.S. Sidar Aged About 45 Years Assistant Sub Inspector P.S. Chirmiri Distt. Korea C.G.
7. Praveen Banjare S/o Shri Pardeshi Aged About 24 Years Constable P.S. Podi, Chirmiri Distt. Koriya C.G.

---- Respondents

For Petitioner	:	Mr. Sanjeev Verma, Adv.
For Respondents No. 1, 2, 3, 4	:	Mr. Suryakant Mishra, PL.
For Respondents No. 5, 6, 7	:	Mr. UKS Chandel, Adv.

Order on Board by Hon'ble Mr. Justice Chandra Bhushan Bajpai
23/02/2017

1. Matter is heard finally.
2. Petitioner has approached to this Court for invoking the jurisdiction vested under Article 226 of the Constitution of India for issuance of writ in nature of certiorari or any other writ of like nature to direct the concerned respondents for conducting fair investigation by any of the special investigating agency other than the respondents for the ends of justice as her daughter Miss Manju committed suicide on 9-11-2013 by hanging herself.
3. Learned counsel for the petitioner submitted that her main

grievance is against R-7 who was in love affair with the deceased and is working as constable in the police department in P.S. Podi, Chirmiri, Distt. Korea (CG). The petitioner has reasonable doubt that R-7 is involved in the alleged suicide committed by Miss Manju and when the petitioner approached to R-3 for investigation in the matter as per Annexure P-5, 6 and 7, the police had not recorded statements again and instead they submitted the earlier statements. As there was no fair investigation, the respondents No. 1 to 4 be directed for fair investigation by any of the special investigating agency other than the respondents. In his support the petitioner placed reliance in the matter of **Ramesh Kumari -v- State and others** reported in 2006 Cr.L.J. 1622 wherein Hon'ble Apex Court held that if the allegations are made against police personnel, interest of justice would be better served if case is registered and investigated by independent agency like CBI. He further placed reliance in the matter of **Central Bureau of Investigation -v- State of Rajasthan and anr.** reported in (2001) 3 SCC 333. In the said case law, it is observed that under the provisions of Section 156(3) of the Code of Criminal Procedure, 1973, Magistrate cannot direct a superior police officer to conduct the investigation but if the superior officer conducts the investigation suo motu or on direction of a superior officer, such investigation would be deemed to be one conducted by the officer in charge of the police station. Section 36 is only meant to supplement the powers of the officer in charge of the police station. Learned counsel relied on para 5 and 6 of the said judgment and submitted that in the light of cited case law, the court may issue

appropriate writ for fair investigation by any of the special investigating agency other than the respondents.

4. Learned counsel for the respondents No. R-5, 6 and 7 submits that the petitioner has not approached to the criminal court to redress her grievances under the relevant provisions of Section 200 and onwards of the Cr.P.C. for filing a criminal complaint. After the death of Miss Manju on 9-11-2013, merg was registered, statements of the petitioner, father, sister and neighbours of the deceased were also recorded under the relevant provisions of Section 174 of the Cr.P.C. In all those statements signatures of above persons were also taken. During said inquiry of merg, they have not said anything for any commission of offence and only stated that there was an affair between the deceased and R-7. As there was no allegation, no cognizance was taken. Thereafter the petitioner made complaint before the Superintendent of Police and thereafter on due inquiry no allegations were made on R-7. As the deceased committed suicide in her residence and as no specific allegations were levelled, merg inquiry and the repeat inquiry does not require any interference hence the petition may be disposed of.
5. Learned counsel for the R-1 to 4 duly supported the reply filed on behalf of R- 5 to 7 and submitted that the petition has no substance and the same may be disposed of.
6. In order to appreciate the arguments advanced, perused the material adduced in the matter.
7. There is no submission as to why the petitioner has not preferred any criminal complaint against R-7 though opportunity is

available under Section 200 of the Cr.P.C. and onwards, also as there is no limitation available as per Section 468 of the Code looking to the nature of allegation, also the section 107 of the IPC could be a core issue for the allegations at the best against R-7, after consideration of the entire facts and circumstances, the inquiry conducted, the re-inquiry, the facts surfaced and also as the petitioner never approached to the criminal court if they have got any material against R-7, I do not see it to be a fit case to order investigation by any special investigating agency. The petitioner may avail opportunity available under the procedural laws. The case laws cited by learned counsel for the petitioner are not applicable in the present matter as the present matter is based on different facts and circumstances.

8. With this observation, instant writ petition (criminal) is dismissed being sans substance.

Sd/-
(Chandra Bhushan Bajpai)
Judge