

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 140 of 2017****Judgment Reserved on 22.11.2017****Judgment Delivered on 22.01.2018**

- Babita W/o Shri Ramkhilawan Aged About 40 Years R/o Azad Nagar 750, Qtr. No. 53/736, Post Godripara, P.S. Chirmiri, District Koriya, Chhattisgarh, Chhattisgarh

---- Appellant**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Home, New Raipur Mantralaya, New Raipur, District Raipur, Chhattisgarh, Chhattisgarh
2. Inspector General Of Police, Sarguja Range, Ambikapur, District- Sarguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
3. Superintendent Of Police, Baikunthpur, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
4. City Superintendent Of Police, Chirmiri, District Koriya, Chhattisgarh, Chhattisgarh
5. B.R. Tandon Aged About 50 Years Station House Officer, Police Station Chirmiri, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
6. Mr. C.S. Sidar Aged About 45 Years Assistant Sub-Inspector, P.S. Chirmiri, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh
7. Praveen Banjare S/o Shri Pardeshi Aged About 24 Years Constable, P.S. Podi, Chirmiri, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Respondents

For Appellant	:	Shri Punit Ruparel, Advocate
For State/Respondents 1 to 4	:	Shri Y.S. Thakur, Additional Advocate General
For Respondents No.5 & 6	:	Shri Syed Majid Ali, Advocate

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice Sharad Kumar Gupta****CAV Judgment****Per Thottathil B. Radhakrishnan, Chief Justice**

1. Heard the learned Counsel for the Appellant, the learned Additional Advocate General as well as the learned Counsel for Respondents No.5 & 6.
2. The Appellant is the mother of Manju, who died on 09.11.2013. According to the Appellant–Writ Petitioner, Manju committed suicide and that her suicide is

relatable to her affair with the 7th Respondent who is a constable in the police department. The Appellant pleads that the 7th Respondent has abetted the suicide of Manju. Stating that the police are not investigating the issue, the Appellant filed Writ Petition seeking a direction to constitute Special Investigating Team. That has been turned down by the learned Single Judge. Hence, this Appeal.

3. The fact that Manju died an unnatural death is not in dispute as between the Appellant and the State. The plea of the Station House Officer is that it is a case of suicide while the Writ Petitioner/Appellant alleges that the unnatural death is attributable to the conduct of the 7th Respondent. The admitted fact is that recourse to Section 174 Cr.P.C. was not made by the officials by having an inquest conducted through an Executive Magistrate. As noticed in an order issued by us in Writ Petition (PIL) No. 6 of 2017, the practice in the State of Chhattisgarh appears to be that Section 174 Cr.P.C. proceedings are carried forward in total disregard to the contents of that provision. We have therefore issued an order in that Public Interest Litigation which related to the death of one Vikas Patel, requiring the State Government to issue directions to the Station House Officer and Police Officers for strict compliance of Section 174 Cr.P.C. by having inquests conducting by the Executive Magistrate.
4. In the case in hand, the Station House Officer and also the private Respondents have taken the definite stand as regards the conduct of late Manju. The plea is that registration of FIR, followed by investigation, is not called for. The writ petition alleging non-registration of FIR has been dismissed by the learned Single Judge holding that the Petitioner has an efficacious alternate remedy by taking recourse of Section 200 Cr.p.C. This means that the Petitioner, according to the learned Single Judge, can initiate only a private complaint against the 7th Respondent.

5. Holding of an inquiry to determine the cause of death as has been done by the Police in the instant case cannot be even treated as inquest by an Executive Magistrate. That by itself is not even an inquiry. If information is received regarding the commission of a cognizable offence, it is the bounden duty of the jurisdictional Police to register FIR and commence investigation as is enjoined by the laws.
6. The law laid by the Apex Court in **Lalita Kumari Vs. Government of Uttar Pradesh & Others, (2014) 2 SCC 1** and by this Court in **Writ Petition (Cr.) No.9 of 2016, Bhushan Singh Rathiya Vs. State of Chhattisgarh & Others, judgment dated 26.08.2016** is that if the statements made to police personnel and materials available before the police disclose the allegations as to the commission of a cognizable offence, it is the bounden duty of the police to register it as an FIR and proceed with it in accordance with law. The 7th Respondent is a policeman. The decisions of the Apex Court in **Ramesh Kumar Vs. State (N.C.T. of Delhi) and Others, 2006 Cri. L.J. 1622** and **K.V. Rajendran Vs. Superintendent of Police, CBCID South Zone Chennai and Others, (2013) 12 SCC 480** are indicative of the principle of law that in such cases the police have the duty to ensure that the confidence in the policing system is maintained and there should be no laxity at all in cases where the allegations are against a person who is in the police service. The mere registration of an FIR and further action thereon in accordance with law would not by themselves breach any right or privilege of the person against whom accusation is made. While ensuring that due process is followed, the police had to register FIR on the facts and circumstances of the case in hand and proceed accordingly. It would also be for the police to follow the requisite procedure of investigation. For the aforesaid reasons, the Writ Appeal is entitled to succeed.
7. In the result, this Writ Appeal is allowed setting aside the impugned judgment and directing the Station House Officer, Police Station, Chirmiri to register FIR

on the basis of the allegations of Appellant and to investigate the said case.

The Superintendent of Police having jurisdiction over the said police station will supervise further proceedings pursuant to the registration of the FIR.

8. The Writ Appeal is ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-/-

(Sharad Kumar Gupta)
Judge