

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(Cr.) No. 74 of 2018**

Rambhau Dewangan S/o Shri Mannulal Dewangan Aged About 53 Years R/o Village Mohad, Tahsil & Police Station Dongergaon, District Rajnandgaon, Chhattisgarh Presently Posted As Deputy Collector Kanker, Chhattisgarh, Civil & Revenue District Rajnandgaon

---- **Petitioner**

Versus

- 1.State Of Chhattisgarh Through The Secretary, Ministry Of Home And/or Secretary, Law And Legislative Affairs, Mantralay, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. The Anti Corruption Bureau Through The Superintendent Of Police Raipur
3. Shri D.S. Parihar, Deputy Superintendent Of Police, Anti Corruption Bureau Raipur.
4. Shri S.K. Sen Inspector, Anti Corruption Bureau, Raipur
5. Shri Lambodar Patel Inspector, Anti Corruption Bureau, Raipur
6. Shri Janak Sahu Assistant Sub Inspector, Anti Corruption Bureau, Raipur
7. Shashi Ranjan Sharma S/o Madan Sharma, aged about 42 years, Caste Brahmin R/o 12, Kadambari Nagar, Police Station Mohan Nagar Dhamdha Road, District Durg.
8. Shri Manish Thakur, S/o Shri Kunwar Lal R/o Neharpara, Urla, Ward No. 58 Durg
9. Shri Manohar Gyanchandani S/o Late Govind Ram Chandani, R/o 12, Kadambari Nagar, Durg
10. The Station House Officer, Police Station Dongergarh, District Rajnandgaon

---- **Respondents**

For petitioner – Shri B.P. Sharma and Shri Chakresh Tiwari, Advocate.
For State – Shri Ashish Shukla, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

07/02/2018

Heard.

1. Learned counsel for the petitioner submits that on the basis of the report that clerk of the petitioner has demanded some money, despite the

fact that no demand has been made by the petitioner, the investigation has started against the petitioner at the instance of one Manish Thakur and Manohar Gyanchandani who are the RTI Activist. He submits that subsequently an application was filed under section 156 (3) of the Cr.P.C. so as to unearth the actual issue wherein on 6/01/2018 Additional Chief Judicial Magistrate, Dongergarh has called for the report from the police. Subsequently, on 16/01/2018 court reviewed its earlier order and has observed that application under Section 156 (3) of Cr.P.C. is dismissed despite the fact that police has sought time for filing of the report. It is submitted that the petitioner has preferred a representation Annexure P-16 and since charge sheet has not been filed, representation of the petitioner may be decided and the order dated 16/01/2018 passed by the Additional Chief Judicial Magistrate, Dongergarh may be set aside and the representation of the petitioner may be considered in that light.

2. Statement has been made at bar that charge sheet has not been filed in this case.

3. Perused the order dated 6/01/2018 passed by the Additional Chief Judicial Magistrate, Dongergarh wherein it purports that on an application filed under Section 156 (3) of the Cr.P.C. a report was called from the Police Station and on 16/01/2018 the police prayed for time to file report, however same was not allowed and detail order has been passed by rejecting the application under Section 156 (3) of the Cr.P.C. Perusal of the order would show that initially though report was called for, however the court on the next date on 16/01/2018 despite the fact that prayer was made by the police to file report, court reviewed its own order suo moto and detail order on the merit has been passed rejecting the application. Therefore, in the opinion of this court once order has been made to call for the report from police, court should have waited for the report of the police and suo moto rejecting the fact that report of the police is not required

would amount to review of its own order and no plausible reason has been shown in the order. In the background and facts of the case calling of report u/s 156 (3) of Cr.P.C. cannot be said to have caused injury to accused or prosecution. Since the order dated 16/01/2018 amounts to review, the same is set aside and the trial court is directed to reconsider the same again after police report is received. It is further directed that the Additional Chief Judicial Magistrate, Dongergarh shall abide by its own order dated 6/01/2018 and thereafter shall pass order afresh after giving proper opportunity of hearing to the petitioner.

4. The documents shows that serious allegations have also been attributed by the petitioner that he was subjected to scuffle and has suffered injuries during incident and various photographs have been filed and a representation has been made by the petitioner. Therefore, taking into documents filed alongwith the petition the State concerned authority may decide such representation within a period of 60 days after receipt of the order. It is made clear that this court has not expressed any opinion on merits of the case.

5. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE