

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 655 of 2018**

Arvind Kumar Tripathi S/o S/o Late Shri Suryakant Tripathi Aged
About 42 Years R/o M.D. 1072, Aditya Nagar Durg, District Durg,
Chhattisgarh, District : Durg, Chhattisgarh --- **Petitioner**

Versus

1. State of Chhattisgarh through the Police Station Gobra Navapara District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Smt. Hemlata Sharma W/o Shri Jitendra Kumar Sharma Aged About 39 Years R/o Village Champaran P.S. Gobra Navapara District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh --- **Respondents**

For the applicants : Mr. Mayank Chandrakar, Advocate

For the State : Mrs. Madhunisha Singh, Panel Lawyer

Fir Respondent No.2 : Mr. Aditya Bharadwaj, Advocate

Hon'ble Shri Justice GOUTAM BHADURI**Order on Board****19.07.2018**

1. The present petition is against the order dated 04.09.2017 passed by the learned Judicial Magistrate First Class, Raipur in Criminal Complaint Case No.1/2017 wherein on an application filed by the complainant u/s 156(3) of the Code of Criminal Procedure the learned JMFC has directed for registration of offence according to the provisions of IPC.
2. Learned counsel for the petitioner submits that the complaint so made is not supported by any affidavit. He relies on a case law reported in *(2015) 6 SCC 287 – Priyanka Shrivastava v. State of Uttar Pradesh* and submits that there cannot be a direction to register the FIR only on the basis of complaint filed.
3. A perusal of the order would show that the learned court below while directing the registration of FIR has recorded the

submission made by the complainant in her application that on 07.07.2017 when the accused were objected to drive the tractor in her field, they hurled abuses at her with filthy language and ravished and extended threat to kill her. It is further alleged in her application that she was thrown to the ground and was also assaulted by fists and kicks, thereafter her modesty was outraged and the accused snatched the *Mangal* Sutra and golden ear tops and also extended threat to commit rape.

4. The supreme Court in case of *Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage* (2016) 6 SCC 277 has laid down that if an application is filed u/s 156(3) Cr.P.C., the Magistrate is prima facie satisfied, he can direct registration of the FIR and if the FIR has already been registered, the Magistrate can issue a direction for proper investigation and also can monitor the investigation.
5. The argument, therefore, advanced by the learned counsel for the petitioner that it is not supported by the affidavit cannot be appreciated as it is premature.
6. The order of the court below would show that after evaluating the prima facie facts and submissions, the primary registration of FIR has been ordered along-with the investigation and direction was given to register the offence under the relevant provisions of IPC. Therefore, entertaining the petition at this stage would be a premature step and such interference would amount to arrest the investigation. Even for the sake of arguments if it is admitted that the affidavit was not attached, the victim cannot be deprived of claiming investigation if cognizable offence is reported. The objection can be raised at the subsequent stage as has been

laid down in *HDFC Securities Ltd., v. State of Maharashtra AIR 2017 SC 61*. The petitioners have approached this Court even before the stage of issuance of process. As such, directing the investigation by the Police cannot be stated to have caused injury of irreparable nature which requires quashing of investigation.

7. In the result, I am not inclined to interfere in the order as the petition is premature. Accordingly, the petition is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**