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HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 404 of 2019**

1. Sandeep Kumar Sai S/o Shri Basant Prasad Sai, Aged About 35 Years, R/o Police Line, Baikunthpur, Koriya, District Koriya Chhattisgarh, posted as Constable at Kotwali, Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Santosh Kumar Sahu S/o Late Nanhuram Sahu, Aged About 36 Years, R/o Village Sagarpur, Police Station Baikunthpur, District Koriya Chhattisgarh, posted in the Office of Nagar Sena Karyalaya, Baikunthpur, District Koriya Chhattisgarh as a Constable and at the time of incident he was posted in the Police Station Baikunthpur, Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, Department of Home Affairs, Mahanadi Bhavan Mantralaya, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Station House Officer, Police Station Ajak, Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
3. Sonmati D/o Gulab Khairwar, Aged About 20 Years, R/o Village Patrapali, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Respondents

WPCR No. 407 of 2019

1. Rameshchandra Yadav S/o Haridutt Yadav, Aged About 48 Years, R/o Village and Post Patrapali, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
2. Puranchand Yadav S/o Haridutt Yadav, Aged About 52 Years, R/o Village and Post Patrapali, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
3. Sandeep Kumar Yadav S/o Puranchand Yadav, Aged About 28 Years, R/o Village and Post Patrapali, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, Department of Home Affairs, Mahanadi Bhavan, Mantralaya, Atal Nagar, Naya Raipur,

District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2. Station House Officer, Police Station, Ajak, Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
3. Sonmati D/o Gulab Khairwar, Aged About 20 Years, R/o Village Patrapali, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Respondents

For Petitioners : Shri B.P. Singh, Advocate.
 For Respondents 1 and 2 /State: Shri Devendra Pratap Singh, Deputy Advocate General and Shri Subhash Yadav, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Judgment on Board

03-07-2019

1. These petitions have been brought under Article 226 of the Constitution of India praying for quashment of the FIR registered as Crime No.20/19 against the petitioners in both the cases by respondent No.2.
2. In WPCR No.404 of 2019 the petitioners are Government servants appointed as Constable, whereas, the petitioners in WPCR No.407 of 2019 are private persons. An application under Section 156(3) Cr.P.C. was filed by respondent No.3 against the petitioners in both the cases on 13-03-2018 making this allegation that on 23-08-2017 at about 5:00 p.m. the petitioners in WPCR No.404 of 2019 forcefully entered into the house of respondent No.3 and by using force outraged her modesty. These petitioners were in search of father of respondent No.3. The other persons who came to intervene were assaulted and beaten by these persons. There are other allegations regarding participation of petitioners in WPCR No.407 of 2019 in commission of crime and it is alleged that the

time of incident the respondent No.3 who is a member of Scheduled Tribes had been insulted on the basis of her social status. This application has been allowed by the Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short 'the SC/ST Act'), Korea by order dated 25-05-2019.

3. It is submitted by learned counsel for the petitioners in both the cases that the facts had been otherwise. On the date of incident, 23-08-2017 the petitioners had been to Village Patrapali for the purpose of investigation of offence registered as Crime No.230/17 and 231/17. Respondent No.3 and others formed an unlawful association with a purpose to deter the petitioners in WPCR No.404 of 2019 from performance of official duty, attacked on the petitioners causing injuries to them, on the basis of which a Crime No.232/17 was registered against father of respondent No.3 and others on the basis of the FIR lodged on the same day by petitioner No.1 Sandeep Kumar Sai in WPCR No.404 of 2019, that case is investigated and charge sheet has been filed, therefore, as a counter blast with a malicious intention an application under Section 156(3) of the Cr.P.C. has been filed which has been erroneously allowed by the concerned Court and on that basis the FIR has been registered. Therefore, it is prayed that the petitions may be admitted for final hearing.
4. Learned counsel for the respondents submits that the petitioners have remedy available to file revision against the order of the Special Judge under the SC/ST Act Korea, Baikunthpur or to file petition under Section 482 of the Cr.P.C. Therefore, these petitions

are not maintainable

5. As the principle is very much clear that petition under Section 226 of the Constitution of India can be entertained only in a case where equally efficacious remedy is not available. Therefore, on finding that the petitioners have remedy available under the other provisions of the Cr.P.C. to challenge the lodging of the FIR against them, hence, these petitions under Article 226 of the Constitution of India cannot be entertained which are dismissed at this stage.
6. Both the petitions are disposed off at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)
Judge