HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR) No. 503 of 2018

1. Mohd. Yusuf Meman, S/o. Late Shri Mohd. Ekbal Meman, Aged About 39 Years, R/o. Ward No.6 Musalmanpara, Takhatpur, Police Station Takhatpur, District Bilaspur, Chhattisgarh.
2. Mohd. Wahid Meman, S/o. Late Shri Mohd. Ekbal Meman, Aged About 38 Years, R/o. Ward No.6, Musalmanpara, Takhatpur, Police Station - Takhatpur, District Bilaspur Chhattisgarh.

   (wrongly shown to be resident of Vyapar Vihar, Police Station- Civil Line Bilaspur, District Bilaspur Chhattisgarh in the impugned order dated 21.06.2018 as well as in the application filed under Section 156(3) of the Code Of Criminal Procedure 1973)

---- Petitioners

Versus

1. Shahid Aibani, S/o. Late Shri Usman Bhai, Aged About 35 Years, R/o. Block Road Takhatpur, Ward No. 1, Police Station & Tahsil Takhatpur, District Bilaspur, Chhattisgarh.
2. Sajid Aibani, S/o. Late Shri Usman Bhai, Aged About 33 Years, R/o. Chadela Colony, Near Bhatiya Patrol Pump, Police Station - Civil Line Bilaspur, Tahsil & District Bilaspur, Chhattisgarh.
3. State Of Chhattisgarh, Through The District Magistrate, Bilaspur, Chhattisgarh.
4. The Station House Officer, Police Station Takhatpur, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioners	:	Mr. Rishi Rahul Soni, Advocate
For Respondent No.1	:	Mr. Amit Kumar, Advocate
For Respondent No.2	:	Mr. Ahmad Hussain, Advoate
For Respondent No.3 & 4	:	Mr. Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09.01.2019

Heard

1. The present petition is against registration of criminal case by invoking Section 156(3) of Cr.P.C. for registration of FIR.

2. Learned counsel for the petitioners submits that the trial Court in order to record the satisfaction and to order for FIR should have recorded the statement of the complainant and without recording

the statement of the complainant any order of investigation cannot be ordered for, which is under challenge that amount to taking cognizance; therefore, the order is bad.

3. Learned counsel for the respondent No.1 relies on the law laid down in case of ***HDFC Securities Limited & Others v. State of Maharashtra & Anr.*** reported in ***(2017) 1 SCC 640.***

4. Perusal of the order dated 21.06.2018 would reveal that the petitioners have approached this Court even the stage before issuing the process. The Supreme Court in ***(2017) 1 SCC 640*** has held that the stage of cognizance would arise only after the investigation report is filed before the Magistrate. By the order dated 21.06.2018 the investigation report has been called for, therefore, the petition appears to be premature and accordingly it is dismissed.

Ashok

Sd/-
(Goutam Bhaduri)
Judge