

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 57 of 2021**

(Arising out of order dated 01.02.2021 passed by the learned Single Judge in WPCR No. 73 of 2021)

- Deepak Tripathi S/o Shri Brijbhushan Tripathi Aged About 25 Years R/o Street No. 7, Mill Para Chowk, Ashish Nagar, Risali, Bhilai District- Durg, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Home Department Mahanadi Bhawan, Mantralaya Naya Raipur, District- Raipur, Chhattisgarh.
2. Superintendent Of Police District- Durg, Chhattisgarh.
3. Town Inspector Police Station Mahila Thana, Bhilai Nagar, Durg, Chhattisgarh.
4. Pratibha Singh @ Pratibha Tripathi D/o Manoj Kumar Singh Aged About 24 Years R/o House No. 318, Utai Road, Chhattisgarh Fabrication, Newai, Bhilai, District- Durg, Chhattisgarh.

---- Respondents

For Appellant	:	Mr. Akash Tiwari, Advocate
For Respondents No.1 to 3/State	:	Mr. Ashish Tiwari, Govt. Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, P. R. Ramachandra Menon, Chief Justice

03.03.2021

1. Challenge in this appeal is against the verdict passed by the learned Single Judge, whereby, the main prayer, seeking for issuance of a writ of mandamus commanding the Respondents No. 2 and 3 to register FIR in respect of the offences mentioned in the complaint preferred by the Appellant / Writ Petitioner, came to be turned down, holding that the Writ Petitioner would be at liberty to file proper complaint before the jurisdictional Criminal Court under Sections 156(3) or 200 of the Code of Criminal Procedure, 1973 (for short, 'the CrPC').

2. According to the Appellant, based on the complaint preferred by the 4th Respondent, alleging demand of dowry by the Appellant / Writ Petitioner and three others, an FIR came to be registered on 28.01.2020 and he was arrested on the next day and was sent to jail in judicial custody. After filing the charge-sheet, the Appellant / Writ Petitioner was released on bail, but on perusal of the charge-sheet, it was found by the Appellant that there was no proper compliance with the relevant provision of the CrPC and no memo in this regard was ever filed along with the charge-sheet. On getting copies of the relevant proceedings, invoking the remedy under the Right to Information Act, the Appellant / Writ Petitioner came to know that his signature was forged, to show compliance of the said statutory provision of the CrPC and hence the position was got confirmed by getting opinion of handwriting expert, as borne by Annexure-P/4. It was accordingly that, Annexure-P/5 complaint was preferred pointing out the involvement of cognizable offences under Sections 420, 461 and 471 of the Indian Penal Code. Since, no action was taken on the said complaint, despite the law declared by the Apex Court in ***Lalita Kumari v. Government of U.P.*** reported in (2014) 2 SCC 1, the Appellant moved this Court by filing writ petition for giving a positive direction to register an FIR as mentioned above and to cause an enquiry to be made against the Respondents No. 2 and 3.
3. When the matter came up for consideration before the learned Single Judge, a question was framed whether a writ of mandamus should be issued under Article 226 of the Constitution of India directing the

jurisdictional police to register an offence under Section 154(1) of the CrPC in a petition filed stating that despite informing the police about the commission of offence, FIR is not being registered against the concerned person. Thereafter, the learned Judge extracted the law / conclusion reached by the Apex Court in paragraph 120 of judgment in ***Lalita Kumari's case*** (supra). A reference was also made to the legal position made clear by the Apex Court on different occasions as in ***Aleque Padamsee and others v. Union of India and Others*** reported in (2007) 6 SCC 171, ***Sakri Vasu v. State of U.P.*** reported in (2008) 2 SCC 409, ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others*** reported in (2016) 6 SCC 277 and recent one in ***M. Subramanian and Anr. v. S. Janaki and Anr.*** reported in 2020 SCC Online SC 342. Relevant portions of the various judgments as above were also extracted in paragraphs 8 to 10. Applying the law to the given set of facts and circumstances, the learned Single Judge held in paragraph 11 that, no direction could be issued to the State authorities to register FIR against the Respondent concerned, however, observing that alternate remedy was available to the Writ Petitioner to approach the competent forum. It was accordingly that, liberty was reserved in favour the Writ Petitioner to file complaint before the jurisdictional Criminal Court under Sections 156(3) or 200 of the CrPC and the matter was disposed of, making it clear that no opinion was being expressed as to merits of the case.

4. Though the learned counsel for the Appellant argued the matter elaborately, it was not substantiated as to 'where' and 'how' the learned Single Judge has gone wrong in reaching the conclusion. We are of the view that the finding recorded by the learned Single Judge is well based on reasons and supported by binding judicial precedents. In the said circumstance, we are of the view that this is not a fit case to call for interference.
5. The appeal fails. It is dismissed accordingly.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge