

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 768 of 2021

Naveen Gupta @ Bappi, S/o Late Purushottam Das Gupta, Aged About 30 Years, Occupation- Business, R/o Mo. Samgam Chowk, Ambikapur, P.S. & Tehsil- Ambikapur, District- Surguja (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, Through: Station House Officer, P.S. AJAK Ambikapur, District- Surguja (C.G.)

---- Respondents

For Petitioner	:	Mr. Shakti Raj Sinha, Advocate.
For State/Respondent	:	Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

04/08/2021

1. The petitioner has filed this petition under Section 482 of the Cr.P.C. against the order dated 16.07.2021 passed by the Special Judge (Atrocities), Ambikapur, District- Surguja (C.G.) by which the application of the petitioner for providing certified copy in connection with Crime No. 17/2021 has been rejected.
2. Learned counsel for the petitioner would submit that the FIR bearing registration No. 17/2021 has been registered against the petitioner for committing offence punishable under Sections 376(2)(n) of I.P.C. & Section 3(2)(v) of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short "the Act, 1989") at Police Station- AJAK Ambikapur. The petitioner filed an application before the Special Judge (Atrocities) for providing certified copy of the FIR in view of the judgment passed by Hon'ble the Supreme Court in case of **Youth Bar Association of India Vs. Union of India & another**¹, which was rejected vide order dated 16.07.2021 by recording the

¹ (2016) 9 SCC 473

finding that the case relates to Section 376 (2)(n) of I.P.C. and Section 3(2)(v) of the Act, 1989, therefore, the certified copy of the FIR cannot be provided. The Coordinate Bench of this Court in **WPCR No. 389 of 2018 (Narendra Rajput Vs. State of Chhattisgarh & others)** and other connected matters on **28.01.2019** has also considered this issue and issued certain guidelines with regard to providing certified copy of FIR to the accused.

3. The issue raised in this petition is no more *res integra*. Hon'ble the Supreme Court in **Youth Bar Association of India (Supra)**, has already examined the issue and certain guidelines have been issued in this regard directing that copy of FIR should be given to the accused within two working days from submission of his application for grant of certified copy of FIR. The relevant para of the judgment are extracted below:-

“11. Having heard learned counsel for the parties, we think it appropriate to record the requisite conclusions and, thereafter, proceed to issue the directions:-

11.1. An accused is entitled to get a copy of the First Information Report at an earlier stage than as prescribed under Section 207 of the Cr.P.C.

11.2 An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a First Information Report can submit an application through his representative/agent/parokar for grant of a certified copy before the concerned police officer or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the Court. On such application being made, the copy shall be supplied within twenty-four hours.

11.3 Once the First Information Report is forwarded by the police station to the concerned Magistrate or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the Court concerned within two working days. The aforesaid direction has nothing to do with the statutory mandate

inhered under Section 207 of the Cr.P.C.

11.4 The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, 6offences under POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the First Information Report so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eighthours. The said 48 hours can be extended maximum up to72 hours and it is only relatable to connectivity problems due to geographical location.

11.5 The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where District Magistrate has a role, he may also assume the said authority. A decision taken by the concerned police officer or the District Magistrate shall be duly communicated to the concerned jurisdictional Magistrate.

11.6 The word 'sensitive' apart from the other aspects which may be thought of being sensitive by the competent authority as stated herein before would also include concept of privacy regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.

11.7. If an FIR is not uploaded, needless to say, it shall not enure per se a ground to obtain the benefit under Section 438 of the Cr.P.C.

11.8 In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State. The Superintendent of Police shall

constitute a committee of three officers which shall deal with the said grievance. As far as the Metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police who shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

11.9 The competent authority referred to hereinabove shall constitute the committee, as directed herein-above, within eight weeks from today.

11.10 In cases wherein decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused/his authorized representative/parokar to file an application or grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the concerned Court not beyond three days of the submission of the application.

11.11 The directions for uploading of FIR in the website of all the States shall be given effect from 15-11-2016.

12. Let a copy of this order be sent to all the Home Secretaries and the Director Generals of Police of the States concerned."

4. In view of the guidelines issued by Hon'ble the Supreme Court in **Youth Bar Association of India (Supra)**, the petitioner is entitled to get "certified copy of the FIR only". As such, the order dated 16.07.2021 passed by the Special Judge (Atrocities), Ambikapur, District- Surguja (C.G.) is not just and proper and the same is liable to be and is hereby quashed. The learned Special Judge is directed to provide "certified copy of the FIR only" to the petitioner.
5. In view of the above, this petition is allowed.

Sd/-
(Narendra Kumar Vyas)
Judge