

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 152 of 2016

- Hiralal Yadav S/o Vishwanath Yadav, Aged About 49 Years R/o Village- Kurkuriya, Post- Sardhapath, P.S. And Tahsil- Bagicha, District- Jashpur Chhattisgarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through- Secretary, Department Of Home, Mahanadi Bhawan, Naya Raipur, District- Raipur Chhattisgarh.
2. Director General Of Police, Police Head Quarter, Raipur, District- Raipur Chhattisgarh.
3. Inspector General Of Police, Surguja Range Ambikapur, District- Surguja Chhattisgarh.
4. Superintendent Of Police, Jashpur, District- Jashpur Chhattisgarh.
5. Station House Officer, Police Station- Bagicha, District- Jashpur Chhattisgarh.
6. Alok Yadav, S/o Devnarayan Yadav, Aged About 25 Years R/o Village- Kurkuriya, Post- Sardhapath, P.S. And Tahsil- Bagicha, District- Jashpur Chhattisgarh.
7. Devmun Yadav S/o Dasrath Yadav, Aged About 18 Years R/o Village- Kurkuriya, Post- Sardhapath, P.S. And Tahsil- Bagicha, District- Jashpur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Rajendra Tripathi, Adv. on behalf of Mr. Varunendra Mishra, Adv.
For State	: Shri Ashish Gupta, P. L.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

29.09.2021

1. The brief facts as projected by the petitioner are that some disputes was going on between the petitioner's family and family of respondents No.7 and 8, on 30.11.2015 at about 8:30 pm the private respondents had come to the house of the petitioner and took the petitioner's son namely Omprakash along with him and thereafter the death body of deceased Omprakash was recovered in suspicious circumstances but the Police without conducting proper investigation has lodged FIR under Section 304-A of IPC instead of Section 302 of IPC.

2. On above factual matrix the petitioner has filed the present petition and prays for following relief(s):-

10.1 This Hon'ble Court may kindly be pleased issue a appropriate writ/direction to respondent to investigate the matter properly and lodged the FIR under Section 302 of IPC against the respondents No.6 and 7.

10.2 This Hon'ble Court may further be pleased to pass an appropriate order or any other relief which deemed fit under the facts and circumstances of the case.

3. The offence under Section 304-A of IPC has already been registered against respondents No.6 and 7. The victim or complainant can file an application for alteration of charges as provided under Section 216 of CrPC if such material is available on record. The complaint or victim or the Court itself alter the charges if sufficient material available for commission of offence under Section 302 of IPC before the trial Court. Thus petitioner has alternate efficacious remedy available to him as per provision of Section 216 of the CrPC. Therefore, present WPCR for alteration of charges under Section 302 is not maintainable.
4. Petitioner has liberty to file suitable application before the Concerned Court for alteration of charges.
5. With this aforesaid liberty in favour of the petitioner, the present WPCR is disposed of.

Sd/-
(Narendra Kumar Vyas)
Judge