

10-06-2026

Shri Vivek Singh Jat, learned counsel, appears on behalf of the complainant/ applicant.

Arguments advanced on behalf of the complainant on the application preferred under Section 156(3) of the Code of Criminal Procedure, 1973 have been heard at length. The matter is now taken up for pronouncement of order.

The brief facts germane to the present application are that the complainant/ applicant, Shri Yuvaraj Singh Bundela, a resident of village Rawari, was at the relevant time residing at a rented accommodation in the premises of one Radhakant Agarwal, situate at Rajghat Colony, Datia. The complainant had come to Datia on the occasion of the festival of Holi and was at that time preparing for competitive examinations. On the fateful day of 27.03.2024, at approximately 11:00–12:00 noon,

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	<p>whilst the complainant was present at his residence in the company of his mother Smt. Rajni Raja, his aunt Rannu Raja alias Vrishabha Kumari, his sisters Rajnandini, Devika Raje and the minor Vedika Raje, and the minor son of his aunt, namely Prabal Pratap Singh, the proposed accused Arvind Bhadauriya (then Station House Officer, P.S. Sinawal), Head Constable Pushpraj Jauhariya, Constable Kapil Sharma, Lady Constable Pooja Sikrwar, accompanied by 8-10 other police personnel, are alleged to have forcibly entered the complainant's private residence without the authority of any search warrant, written order, or other lawful justification whatsoever.</p> <p>Upon their forcible entry into the dwelling, the accused persons are alleged to have hurled filthy and obscene abuse at the complainant and his family members, and to have kicked violently at the doors of the rooms and the bathroom. When the complainant and his mother endeavoured to remonstrate with the intruders, drawing their attention to the fact that ladies were bathing within, the accused SHO Arvind Bhadauriya, far from exercising any restraint, is alleged to have struck the complainant across the cheek with an open palm. When the complainant's mother and sister attempted to record the episode on their mobile phones as a measure of self-protection, all mobile phones present were forcibly wrested away by the police personnel. Thereafter, a brutal and indiscriminate assault is alleged to have been unleashed upon the complainant, his mother, aunt, sisters and the minor Prabal Pratap Singh — by means of kicks, fists and lathis. The complainant's mother, Smt. Rajni Raja,</p>	

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	<p>was struck upon the head with a lathi by the accused SHO, causing her to bleed profusely and collapse. During transportation to the police station, the complainant was punched in the face in the region of his left eye, resulting in a injury. The assault is alleged to have continued even within the premises of the police station.</p> <p>A false case was thereafter registered against the complainant and members of his family. The complainant was produced before The Court on the same day. Upon this Court noticing the visible injuries sustained by the complainant, a direction was issued for his medical examination. The medical report so obtained corroborated the assault. It is further alleged that the video recordings captured by the family members of the complainant on their mobile phones were deleted by the police before the said devices were returned to them.</p> <p>The complainant further avers that a written complaint was dispatched by post to the Station House Officer, P.S. Kotwali, Datia on 26.06.2024, which was duly received on 28.06.2024. A separate written complaint was also placed before the Superintendent of Police, Datia on 28.06.2024. Notwithstanding the aforesaid communications, no action of any nature has been taken against the proposed accused to date, compelling the</p>	PTO

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	<p><del>complainant to seek recourse before this Court.</del></p> <p>Upon perusal of the record, it transpires that this Court had previously rejected the present application vide order dated 02.09.2025, on the ground that the prerequisites essentials under Section 156(3) Cr.P.C., as authoritatively laid down by the <b><u>Hon'ble Supreme Court in Priyanka Srivastava &amp; Anr. v. State of U.P. &amp; Ors., (2015) 6 SCC 287</u></b>, had not been complied with. The complainant thereupon preferred a revision petition before the Sessions Court. The Respected Third Additional Sessions Judge, Datia, vide order dated 28.01.2026, was pleased to allow the revision petition and set aside the order of this Court dated 02.09.2025, recording the finding that the procedural prerequisites under Sections 154(1) and 154(3) Cr.P.C. had, in fact, been duly complied with. This Court was accordingly directed to take up the application afresh and decide the same on merits within the prescribed period. The present order is passed in compliance of the said revisional direction.</p> <p>The complainant has, by means of the present application, sought the registration of a First Information Report against the proposed accused under Sections 452, 323, 294, 147, 148 and 149 of the Indian Penal Code. This Court has accordingly applied its mind to the allegations contained in the application and to the material placed on record.</p> <p><b><u>Regarding Section 294 IPC:</u></b> The offence of committing an obscene act or singing obscene songs under Section 294 IPC has as an essential ingredient that the act complained of must have been committed in a public place. On the facts as narrated in the application, the abusive language is alleged to</p>	

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	<p>have been directed inside the complainant's private residential dwelling, which, by no stretch of interpretation, can be regarded as a public place within the contemplation of Section 294 IPC. The indispensable element of the offence being absent, the ingredients of Section 294 IPC are not prima facie made out. The prayer for registration of FIR under Section 294 IPC is accordingly not acceded to at this stage.</p> <p><b><u>Regarding Sections 147, 148 and 149 IPC:</u></b></p> <p>For the constitution of the offences of rioting and unlawful assembly under these provisions, the foundational requirement is the existence of an unlawful assembly of five or more persons sharing a common object, as defined under Section 141 IPC. A careful scrutiny of the application reveals that the proposed accused are specifically identified only to the extent of four named individuals, while the remaining participants are described merely as "8-10 unknown police personnel" without any particularisation of their individual roles or conduct. In the absence of specific attribution of criminal acts to identifiable persons beyond the named accused, the essential element of an unlawful assembly as envisaged under Section 141 IPC is not prima facie established. Accordingly, Sections 147, 148 and 149 IPC are not invoked at this stage.</p>	<p style="text-align: right;">PTO</p>

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Regarding Sections 452 and 323 IPC read

with Section 34 IPC: The material on record comprising the application supported by affidavit, order sheet of this Court dated 27.03.2024 (recorded contemporaneously with the very incident in question), the bail application of Yuvaraj Singh Bundela wherein the assault is specifically mentioned, the medical report corroborating the injuries sustained by the complainant, and the colour photographs of the complainant and his mother placed on record which, though undated, are visually consistent with the alleged assault which collectively and prima facie establishes that the proposed accused Nos. 1 to 4 forcibly trespassed into the complainant's private residence and committed brutal assault upon the complainant and his family members. The medical evidence lends positive credence to the averments in the application. The ingredients of house-trespass after preparation for hurt under Section 452 IPC and voluntarily causing hurt under Section 323 IPC, read with Section 34 IPC, are therefore prima facie made out against proposed accused Nos. 1 to 4.

The proposed accused are admittedly public servants holding positions in the State Police. A consequential preliminary question therefore arises as to whether the acts attributed to them may be characterised as acts performed in the discharge of their official duty, which would attract the bar of prior sanction for prosecution under Section 197 Cr.P.C.

This Court, upon careful consideration, is of the firm and considered opinion that the alleged acts — namely, forcibly entering a private residential

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	<p>dwelling without any search warrant or written authority, assaulting women and a minor child within the premises of their own home and confiscating mobile phones cannot, by any stretch of constitutional or legal reasoning, be characterised as acts performed "in discharge of official duty." Such acts are not only beyond the pale of official authority but are, in fact, in direct contradiction of it.</p> <p><b><u>The Hon'ble Supreme Court in XXX v. State of Kerala &amp; Ors. (Neutral Citation: 2026 INSC 88), Criminal Appeal No. 4629 of 2025</u></b> has authoritatively enunciated that:</p> <p>"Where the Judicial Magistrate is satisfied that the alleged act was not done in discharge of official duties and/or has no reasonable connection therewith, and that the stringent provisions of Sub-section (4) of Section 175 are not attracted, proceedings may be taken in respect of the complaint in the ordinary manner as prescribed under Sub-section (3) of that Section."</p> <p>The said principle squarely governs and applies to the facts of the present case. Forcing one's way into a private residence without a warrant, voluntarily causing hurt against women and a minor child are acts that bear no rational or reasonable nexus to any legitimate exercise of police power. They are not acts referable to official authority; they are, on the contrary, brazen violations of law and of</p>	

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~~the fundamental constitutional rights guaranteed to~~  
every citizen under Articles 21 and 22 of the  
Constitution of India. No prior sanction is, therefore,  
required for directing investigation in the present  
matter.

This Court is further satisfied that police  
investigation is not merely desirable but absolutely  
indispensable in the present matter, for the following  
cogent reasons:

(i) The CCTV footage of P.S. Kotwali, Daria  
pertaining to the relevant date and time requires  
immediate seizure, as it is likely to contain material  
evidence pertaining to the incident;

(ii) The video recordings allegedly deleted  
from the mobile phones of the complainant's family  
members may be recoverable through forensic  
examination by the Cyber Cell — a task entirely  
beyond the means and capacity of the complainant;

(iii) The weapons and lathis allegedly  
employed in the commission of the assault require  
seizure from the persons of the accused;

(iv) The statements of the injured witnesses  
and the complainant require to be recorded and an  
independent site inspection is warranted;

(v) The evidence requisite for establishment of  
the offences alleged is neither in the possession of  
the complainant nor can it be procured without the  
coercive assistance of the investigating authority.

This is precisely the situation envisaged and  
addressed by the Hon'ble Supreme Court in  
Ombakash Ambakar v. State of Maharashtra &  
Ors., 2025 AIR (SC) 970, wherein it was  
unequivocally held that a Magistrate is duty-bound  
to direct police investigation when the information

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	<p>before it prima facie discloses the commission of cognizable offences and the necessary evidence cannot be procured without police assistance.</p> <p>In light of the foregoing discussion and upon a comprehensive consideration of the entire record, the application preferred by the complainant/applicant under <b>Section 156(3) Cr.P.C.</b> is hereby <b>ALLOWED</b>.</p> <p>The <b>Station House Officer, P.S. Kotwali, District Datia</b> is hereby directed to register a First Information Report forthwith against:</p> <ol style="list-style-type: none"> <li>1. Arvind Bhadauriya, then SHO, P.S. Sinawal, District Datia</li> <li>2. Pushpraj Jauhariya, then Head Constable, P.S. Sinawal, District Datia</li> <li>3. Kapil Sharma, then Constable, P.S. Sinawal, District Datia</li> <li>4. Pooja Sikrwar, then Constable, P.S. Sinawal, District Datia</li> </ol> <p>under <b>Sections 452 and 323 IPC read with Section 34 IPC</b>, on the basis of the allegations contained in the present application, and to conduct a fair, thorough and impartial investigation therein, submitting the final report to the concerned court without undue delay.</p> <p>The SHO, P.S. Kotwali is further directed to transmit a copy of the FIR so registered to this Court</p>	

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	<p><del>forthwith upon its registration, as mandated under</del> <b>Section 157 Cr.P.C.</b></p> <p>A copy of this order shall be forwarded to the <b>Superintendent of Police, District Datia</b> as well as to the <b>SHO, P.S. Kotwali, District Datia</b>, for necessary compliance and action.</p> <p>It is made explicitly clear that non-compliance with a lawful order passed under Section 156(3) Cr.P.C. is liable to be visited with proceedings for contempt of court as permissible in law.</p> <p>The case is listed for receipt of FIR copy on 16.06.2026.</p> <p><i>Vijitashwa Pushkar</i> (Vijitashwa Pushkar) Judicial Magistrate First Class, Datia, Madhya Pradesh</p>	<p><i>Noted</i> <i>Pushkar</i></p>