

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2026
[@ SPECIAL LEAVE PETITION (CRL.) No.13950/2025]

USHA SINGH & ANR.

APPELLANT(S)

VERSUS

THE STATE OF CHHATTISGARH & ORS.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. Heard learned counsel for the parties.
3. This appeal is directed against the judgment and order of the High Court of Chhattisgarh at Bilaspur dismissing WPCR No.277 of 2024 filed by the appellant(s) seeking registration of a First Information Report (FIR) and consequential investigation on their claim that their male child was swapped with a female child at the clinic of the respondent(s).
4. In brief, facts giving rise to this appeal are as follows. Appellant no.1 underwent an IVF procedure at Mata Laxmi Nursing Home, Pahaljani Test Tube Baby and Surrogacy Centre at Raipur, Chhatisgarh. Based on such procedure, she delivered twins on 25.12.2023.

According to the appellant(s), a male and a female child was born on 25.12.2023, but the male child was swapped at the Centre with a female child. DNA profiling report obtained subsequently revealed that one of the twins did not have the gene pool of either of her parents. Based on that, an effort was made to lodge FIR. Having failed in that, the appellant(s) filed a writ petition which came to be dismissed by the impugned order while placing reliance on certain preliminary investigation report(s) including medical report(s). Aggrieved therewith, this appeal has been filed.

5. In the counter affidavit, a stand has been taken that the difference in the gene pool of the two children is possible, and it cannot form basis of suspicion. This is so, because three embryos were planted by IVF procedure. The egg was sourced from an external donor whereas sperms were sourced from the husband of the appellant no.1 (i.e., appellant no.2) and an external donor, and all of this was done under consent of the appellants.

6. The submission of the learned counsel for the appellant(s) is that the appellant never consented to utilize sperm of an external donor and there is

manipulation in the consent form. Moreover, Central Act No.42 of 2021 (i.e. "The Assisted Reproductive Technology (Regulation) Act, 2021"), which was notified on 25.01.2022, vide Section 24(c) proscribes using gametes or embryos derived from more than one man or woman during any one treatment cycle. Thus, the defence, that in one cycle three embryos were planted sourced from egg(s) of one woman and sperm(s) of different men, is unsustainable and is in teeth of the provisions of Section 24(c) of Act No.42 of 2021. It is submitted that the consent document is, therefore, nothing but a manipulated/ fabricated document. Hence, a *prima facie* case is made out for registration of FIR and consequential investigation. It has also been submitted that the High Court had failed to advert to the provisions of Act No.42 of 2021 and have also failed to consider that when the appellant(s) had questioned the veracity of consent for planting embryos derived from different sources, the matter required investigation.

7. In response, the learned counsel for the respondent(s) has invited our attention to certain documents to indicate that the appellants had consented for placement of embryos derived from

different couples and, therefore, since the complaint of the appellants was belated, and appears an after-thought, it is not a fit case where investigation should be directed, particularly when, the doctors have no motive for swapping the child as is alleged by the appellants.

8. We have given our thoughtful consideration to the rival submissions. Ordinarily, if an FIR is not registered, despite effort, the informant is required to avail remedies under the Code of Criminal Procedure, 1973 (i.e., Section 156(3)), as it stood then, or the Bhartiya Nagrik Suraksha Sanhita, 2023. However, constitutional powers of the High Court and the Supreme Court cannot be whittled down by any statutory framework. Having regard to the above, and upon consideration of the allegations as also that there appears to be a statutory regime governing placement of embryos, as noticed above, we are of the view that a *prima facie* case is made out for criminal investigation. Consequently, this appeal is allowed. The impugned order is set aside. A direction is issued to the Superintendent of Police, District Raipur to ensure that the complaint of the appellants is registered as a First Information Report at the

concerned police station and is investigated in accordance with law.

9. It is made clear that we have not expressed any opinion on the merits of the prosecution case/ allegations made by the appellants.

10. Pending application(s), if any, shall stand disposed of.

.....J.
(MANOJ MISRA)

.....J.
(MANMOHAN)

NEW DELHI;
JANUARY 19, 2026

ITEM NO.54

COURT NO.13

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (CRL.) NO.13950/2025

[Arising out of impugned final judgment and order dated 22-01-2025 in WPCR No. 277/2024 passed by the High Court of Chhatisgarh at Bilaspur]

USHA SINGH & ANR.

Petitioner(s)

VERSUS

THE STATE OF CHHATTISGARH & ORS.

Respondent(s)

IA No. 204212/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 204215/2025 - EXEMPTION FROM FILING O.T.

Date : 19-01-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :Mr. Ashok Kumar Panigrahi, Adv.
Mr. Jitendar Kumar Sharma, Adv.
Mr. Pardeep Singh, Adv.
Mr. Chand Qureshi, AOR
Mr. Nand Ram, Adv.

For Respondent(s) :Mrs. Prerna Dhall, Adv.
Mr. Ambuj Swaroop, Adv.
Mr. Kapil Katare, Adv.
Ms. Rajnandani Kumari, Adv.
Ms. Minakshi Pandey, Adv.
Mr. Prashant Singh, AOR

Mr. Gagan Gupta, Sr. Adv. (For 3 & 4)
Miss S. Lakshmi Iyer, AOR
Mr. Abhinay Sharma, Adv.
Mr. Animesh Tiwari, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1. Leave granted.**
- 2. The appeal is allowed in terms of the signed order which is placed on the file.**
- 3. Pending application(s), if any, shall stand disposed of.**

**(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS**

**(SAPNA BANSAL)
COURT MASTER (NSH)**