

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 7 of 2016**

1. Smt. Shanti Devi W/o Naresh Prasad Gupta, Aged About 37 Years R/o Village Bhanoura, P.S. & Tahsil Balrampur District Balrampur Ramanujganj (CG), Civil District Surguja and Revenue District Balrampur Ramanujganj (CG)
2. Naresh Prasad Gupta, S/o Shri Shiv Pujan Sao, Aged About 40 Years R/o Village Bhanoura, P.S. & Tahsil Balrampur District Balrampur Ramanujganj (CG), Civil District Surguja and Revenue District Balrampur Ramanujganj (CG)

---- Petitioners**Versus**

1. The State Of Chhattisgarh, through Secretary, Department of Home, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh
2. The Inspector General of Police, Surguja Range, at Surguja, District Surguja Chhattisgarh
3. The Superintendent of Police, Balrampur, District Balrampur - Ramanujganj, Chhattisgarh
4. Incharge, Police Station, Balrampur, District Balrampur - Ramanujganj, Chhattisgarh
5. Shri Shukla Town Inspector, P.S. Balrampur, District Balrampur - Ramanujganj, Chhattisgarh
6. Shri Rathore, Assistant Sub Inspector, P.S. Balrampur, District Balrampur - Ramanujganj, Chhattisgarh
7. Shri Arjun, Assistant Sub Inspector, P.S. Balrampur, District Balrampur - Ramanujganj, Chhattisgarh
8. Shri Ranjan, Police Constable, P.S. Balrampur, District Balrampur - Ramanujganj, Chhattisgarh
9. Shri Mahendra, Police Constable, P.S. Balrampur, District Balrampur - Ramanujganj, Chhattisgarh
10. Shravan Kumar, S/o Shyam Kishore, Aged About 43 Years, R/o Village Bhanoura, P.S. & Tahsil Balrampur, District Balrampur – Ramanujganj (CG)
11. Geeta Devi W/o Shravan Kumar, Aged About 38 Years, R/o Village Bhanoura, P.S. & Tahsil Balrampur, District Balrampur – Ramanujganj (CG)
12. Amit Gupta, S/o Shravan Kumar, Aged About 21 Years, R/o Village Bhanoura, P.S. & Tahsil Balrampur, District Balrampur – Ramanujganj (CG)

13. Sumit Gupta, S/o Shravan Kumar, Aged About 20 Years, R/o Village Bhanoura, P.S. & Tahsil Balrampur, District Balrampur – Ramanujganj (CG)

---- Respondents

For Petitioners	:	Mr. A.K.Prasad, Advocate
For Res. No.1 to 4:		Mr. Adi Raj Surana, Dy.G.A., on advance copy

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

18/02/2016

1. Mr.A.K.Prasad, learned counsel appearing for the petitioners, would submit that respondents No.5 to 9 are harassing, threatening and committing atrocities against the petitioners and their family members, but no action is being taken by the official respondents against private respondents, therefore, the respondents authorities be directed to take necessary departmental and legal action against respondents No.5 to 9 for not taking action against respondents No.10 to 13 and official respondents be also punished departmentally and it is further directed to take action against respondents No.10 to 13.
2. On the other hand, Mr.Adi Raj Surana, learned Deputy Government Advocate for respondents No.1 to 4, on advance copy, would submit that Crime No.46/2015 for offence punishable under Sections 294 and 506/34 of the IPC has been registered against the petitioners, charge-sheet has been prepared and they have served notice to appear in the Court on 1.12.2015 and 14.12.2015, but they refused to accept the notice, therefore, as a repercussion of registration of offence, the petitioners have filed the instant writ petition. He would further submit that if the petitioners are not satisfied with the action of the police authorities, they have alternative remedy of submitting application under

Section 156 (3) of the CrPC, before the jurisdictional Magistrate as held by the Supreme Court in **Sakiri Vasu v. State of Uttar Pradesh and others**¹ or filing complaint before the jurisdictional criminal court under Section 200 of the CrPC. He would also rely upon the decision rendered by this Court in **Mohd. Anish Memon v. State of Chhattisgarh & Ors.**²

3. I have heard learned counsel for the parties on the question of admission.
4. At this stage, it would be pertinent to mention the decision rendered by the Supreme Court in **Sakiri Vasu** (supra) in which the Supreme Court has held as under in paragraphs 26 and 27: -

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under [Section 154\(3\)](#) CrPC or other police officer referred to in [Section 36](#) CrPC. If despite approaching the Superintendent of Police or the officer referred to in [Section 36](#) his grievance still persists, then he can approach a Magistrate under [Section 156\(3\)](#) CrPC instead of rushing to the High Court by way of a writ petition or a petition under [Section 482](#) CrPC. Moreover, he has a further remedy of filing a criminal complaint under [Section 200](#) CrPC. Why then should writ petitions or [Section 482](#) petitions be entertained when there are so many alternative remedies?

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under [Section 482](#) CrPC simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under [Sections 36](#) and [154\(3\)](#) before the police officers concerned, and if that is of no avail, under [Section](#)

1 2008) 2 SCC 409

2 2009 (I) MPJR-CG 73

[156\(3\)](#) CrPC before the Magistrate or by filing a criminal complaint under [Section 200](#) CrPC and not by filing a writ petition or a petition under [Section 482](#) CrPC.”

5. Aforesaid decision of the Supreme Court has been followed by this Court in **Mohd. Anish Memon** (supra), **Ram Prakash Katiyar v. State of Chhattisgarh & Ors.**³ and **Bhagwan Das v. State of Chhattisgarh & Ors.**⁴.
6. Likewise, the Supreme Court in the matter of **Aleque Padamsee and others v. Union of India and others**⁵ has held that if any person is aggrieved by the inaction of police officials in registering the FIR, the modalities contained in Section 190 read with Section 200 of the Code of Criminal Procedure, 1973 are to be adopted and observed.
7. Thus, the petitioners have the efficacious statutory alternative remedy of approaching firstly before the Superintendent of Police under Section 154 (3) of the CrPC or other officer mentioned in Section 36 of the CrPC. Despite approaching the Superintendent of Police or other officer as mentioned in Section 36 of the CrPC, the petitioners are entitled to make an application to the Magistrate under Section 156 (3) of the CrPC and also have a further remedy of filing complaint under Section 200 of the CrPC. The Supreme Court in like situation has deprecated the practice of directly entertaining writ petition or petition under Section 482 of the CrPC by this Court and emphasized the fact that the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation in **Sakiri Vasu** (supra), and followed by this Court also in above-stated cases.

³ 2011 (III) MPJR-CG 116

⁴ 2011 (I) CGBCLJ 129

⁵ (2007) 6 SCC 171

8. In view of the above, the petitioners have not properly approached the above stated forums as rendered in **Sakiri Vasu** (supra). I do not find any case for issuance of writ to the police authorities to register F.I.R. against the private respondents on report made by the petitioners. The writ petition is liable to be dismissed and it is accordingly dismissed *in limine* but without imposition of cost(s). However, the petitioners shall be at liberty to avail other appropriate remedies, in accordance with law for registration of F.I.R. is concerned as indicated by the Supreme Court in **Sakiri Vasu** (supra) and also at liberty to bring to notice of the said authorities the decision rendered by the Supreme Court in **Lalita Kumari v. Government of Uttar Pradesh and others**⁶.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-

⁶ (2014) 2 SCC 1