

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cri.) No. 32 OF 2016

Narayan Prasad Verma S/o Shri Dhansingh Verma, aged about 54 years, Resident of Village Katai, Post Badnara, Thana Nawagarh, District Bemetara (C.G.)

---Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Home Department Mahanadi Bhawan, Mantralaya, Naya Raipur Chhattisgarh
2. Director General of Police, Police Head Quarter, New Raipur Chhattisgarh
3. Inspector General of Police, Durg Range, District Durg Chhattisgarh
4. Superintendent of Police, Bemetara, District Bemetara Chhattisgarh
5. Sub Divisional Officer (Police), Bemetara District Bemetara Chhattisgarh
6. Station House Officer, Nandghat Police Chowki Chandanu, District Bemetara Chhattisgarh
7. Gulshan Chelak S/o Shri Dileshwar Chelak, R/o Village Kurva, Post Badnara, P.S. Nandghat, District Bemetara Chhattisgarh
8. Mukesh Diwakar S/o Shri Jagmohan Diwakar, R/o Village Khairi, Post & Thana Nawagarh, District Bemetara Chhattisgarh

9. Raju Chelak, S/o Shri Dileshwar Chelak, R/o At Post Ghutiya, Kawardha, P.S. Kawardha, Tahsil & District Kawardha Chhattisgarh
10. Dhannu Banjare, S/o Shri Turukh Banjare, R/o Village Manjhaghan, P.S. Tahsil & District Mungeli Chhattisgarh
11. Ghanaram S/o Shri Prabhu Satnami, R/o Village & Post Kurra, P.S. Nanghat, District Bemetara Chhattisgarh
12. Smt. Pulmat Bai, W/o Shri Ramnath, R/o Village & Post Jamnagar Gujrat

----Respondents

For Petitioner	:	Mr. R.S. Patel, Advocate
For State	:	Mr. Dheeraj Wankhede, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

22/02/2016

1. The petitioner herein has filed this writ petition seeking appropriate writ or direction commanding the respondent authorities to register criminal case against respondents No. 7 to 12 for cognizance of cognizable offence and holding thorough and seedy investigation in the matter.
2. Mr. R.S. Patel, learned counsel for the petitioner,

would submit that cognizable offence has been committed by one Shoakhi Lal and respondents No. 7 to 12 but only offence has been registered against Shoakhi Lal and no action is being taken against respondents No. 7 to 12. Though the matter has been reported to the higher authority, therefore, in the light of decision rendered by the Supreme Court in the matter of **Lalita Kumari v. Government of Uttar Pradesh and others**¹, the respondent authority be directed to proceed against respondents No. 7 to 12.

3. On the other hand, learned State counsel would submit that petitioner himself lodged a named First Information Report vide Crime No. 0/2015 against Shoakhi Lal in Police Station Nandghat for the offence under Sections 363, 366 of the Indian Penal Code (for short 'the IPC') and investigation is going on. He would further submit that if the petitioner is not satisfied with the action of the police authorities, he has alternative remedy of submitting application under Section 156 (3) of the Code of Criminal Procedure, 1973 (for short 'the CrPC'),

¹ (2014) 2 SCC 1

before the jurisdictional Magistrate as held by the Supreme Court in the matter of **Sakiri Vasu v. State of Uttar Pradesh and others**² 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.**³.

4. I have heard learned counsel for the parties on the question of admission.

5. In the case in hand, on the petitioner's complaint offence under Sections 363 and 366 of the IPC has been registered against Shoakhi Lal by jurisdictional police and matter is under investigation. 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

² (2008) 2 SCC 409

³ 2009 (I) MPJR-CG 73

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 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.”

6. 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.**⁴ and **Bhagwan Das v. State of Chhattisgarh & Ors.**⁵.

7. Likewise, the Supreme Court in the matter of **Aleque Padamsee and others v. Union of India and others**⁶ 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.

8. Thus, the petitioner has 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

4 2011 (III) MPJR-CG 116

5 2011 (I) CGBCLJ 129

6 (2007) 6 SCC 171

or other officer as mentioned in Section 36 of the CrPC, the petitioner is entitled to make an application to the Magistrate under Section 156(3) of the CrPC and also has 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 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.

9. In view of the above, the petitioner has not properly approached the above stated forums as rendered in **Sakiri Vasu (supra)**. I do not find any case of issuance of a writ to the police authorities to register FIR on the report made by the petitioner and the writ petition is liable to be dismissed and it is accordingly dismissed *in limine* but without imposition of cost(s). However, the petitioner shall be at liberty to avail other appropriate remedies, in accordance with law for registration of FIR is concerned as indicated by the Supreme Court in **Sakiri Vasu (supra)**

and also at liberty to bring to the notice of said authorities the decision rendered by the Supreme Court in **Lalita Kumari (supra)**.

Sd/-
(Sanjay K. Agrawal)
Judge

Tiwari