

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 226 of 2016

- Arshad Khan S/o Shri Mustafa Khan, Aged About 43 Years R/o Guru Govind Singh Ward, Behind Mayur Club, Puranbada, Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Superintendent Of Police, Raipur, District Raipur (Chhattisgarh)
3. In-Charge Police Officer/ Station House Officer, Police Station Civil Lines, Raipur, Distt. Raipur (Chhattisgarh)

---- Respondent

For Petitioner	Mr .Anand Dadariya, Advocate
For Respondent /State	Mr. Ramakant Mishra, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

20/9/2016

1. The instant wit petition under Article 226 of the Constitution of India has been preferred by the petitioner seeking a direction to respondent No.3 to register the First Information Report (FIR) against the accused persons on the basis of written complaint made by the petitioner disclosing commission of cognizable offence.
2. Reliance has been placed on the judgment rendered by the Supreme Court in the matter of ***Lalita Kumari Vs. Government***

of Uttar Pradesh and others, (2014) 2 SCC 1.

3. Petitioner's marriage with one Guddi alias Aashma Khan was solemnized on 2.2.2003 and thereafter, they were residing at Raipur. It is alleged by the petitioner that his wife has started levelling allegations for last 2-3 years with the help of one Irani Gulabi Gang and is mentally torturing him. She is having illicit relation with one Rehan Kazi and is pressurizing the petitioner to transfer the property in her name. It appears the dispute concerns relationship between the husband and wife.
4. In the matter of ***Sakiri Vasu Vs. State of Uttar Pradesh and others, (2008) 2 SCC 409***, the Supreme Court has held that when the concerned Police fails to register an FIR, the complainant has remedy under Section 156(3) or Section 200 of CrPC and ordinarily, a writ petition should not be entertained. It is held thus in para 26 & 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 officers 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."

5. In view of the above, the writ petition is disposed of with liberty to the petitioner to move a duly constituted application under Section 156(3) CrPC or a complaint under Section 200 CrPC.

Sd/-

Judge

(Prashant Kumar Mishra)

Gowri