

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 286 of 2015

- Smt. Savitri Gendley D/o Late Sundar Lal Gendley, Aged About 56 Years R/o Rajendra Nagar, Tiwari Chal, Head Master, Government Primary School, Kesla, District Bilaspur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Superintendent Of Police, Bilaspur, District Bilaspur, (Chhattisgarh)
2. Station House Officer, City Kotwali, Bilaspur, District Bilaspur, (Chhattisgarh)
3. Officer In- Charge, Police Station Sarkanda, Bilaspur, District Bilaspur, (Chhattisgarh)
4. Officer Incharge, Police Station, Civil Line, District Bilaspur, (Chhattisgarh)

---- Respondent

For Petitioner	Mt. Shrawan Agarwal, Advocate
For Respondent /State	Mr. R.K. Gupta, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/1/2016

Heard finally with the consent of learned counsel for the parties.

(2) The petitioner would pray for a direction to respondent No.2 for registration of an offence under Sections 420 and 406 of IPC against the prospective accused namely Surendra Gendley and Indu Gendley (Sahu).

(3) The prayer has been made on the basis of report lodged with respondent No. 2 City Kotwali, Bilaspur *inter alia* alleging that the above

named persons were handed over Rs.15,000/- for incurring expenses in the treatment of the petitioner's mother Smt. Yashoda Gendle. However, the prospective accused committed breach of trust by misappropriating the amount. They did not use the amount for treatment of Yashoda Gendle but retained it for their own benefit.

(4) It appears, on the report lodged by the petitioner, the City Kotwali, Bilaspur has already made preliminary enquiry, wherein it has been found that the offence disclosed in the report Annexure P/1, is non-cognizable. If the allegations do not constitute commission of cognizable offence by the prospective accused, a writ of mandamus for registration of FIR cannot be issued.

(5) Accordingly, the writ petition is disposed of with liberty to the petitioner to prefer a duly constituted criminal complaint before the jurisdictional Magistrate.

Sd/-

Judge

(Prashant Kumar Mishra)