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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Criminal) No. 46 OF 2016

Smt. Deeksha Singh wife of Tarun Singh, aged about 19 years, Resident of Panna Nagar, Ring Road No. 2, In Front of Sai Baba Hospital Thana Civil Line, Gaurav Path, Bilaspur, Civil and Revenue District Bilaspur (C.G.) (Complainant).

---- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Department of Home Affairs (Police), New Raipur Mantralaya, New Raipur, Civil and Revenue District Raipur (C.G.).
2. The Director General of Police, Raipur, Civil and Revenue District Raipur (C.G.).
3. The Inspector General of Police, Range Bilaspur, Civil and Revenue Bilaspur (C.G.).
4. Superintendent of Police, Bilaspur, Civil and Revenue Bilaspur (C.G.).
5. District Magistrate Bilaspur, Civil and Revenue Bilaspur (C.G.).
6. Station House Officer, Police Station Civil Line, Bilaspur, Civil and Revenue Bilaspur (C.G.).

7. Harish Pandal son of Late Pundas Pandal, aged about 40 Years, Resident of Panna Nagar, Ring Road No. 2, In Front of Sai Baba Hospital Thana Civil Line, Gaurav Path, Bilaspur, Civil and Revenue District Bilaspur (C.G.) (Accused No. 1).

8. Tekchand Pandal, son of Late Pundas Pandal, aged about 40 Years, resident of Panna Nagar, Ring Road No. 2, In Front of Sai Baba Hospital Thana Civil Line, Gaurav Path, Bilaspur, Civil and Revenue District Bilaspur (C.G.) (Accused No.2).

---- Respondents

For Petitioner : Mr. Punit Ruparel, Advocate
 For State/Respondents No. 1 to 6:-
 Mr. Adhiraj Surana, Dy. Govt. Advocate
 on advance copy

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

26/02/2016

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 & 8 for cognizance of cognizable offence and holding thorough and speedy investigation in

the matter.

2. Learned counsel appearing on behalf of the petitioner would submit that petitioner has made a report to the police for taking action against the respondents No. 7 & 8, but no action has been taken by the police against them. 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 & 8.

3. On the other hand, learned counsel appearing on behalf of the State/respondents No.1 to 6 on advance copy, would submit that if the petitioner is not satisfied with the action of the police authorities, she has alternative remedy of submitting application under Section 156 (3) of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.'), before the jurisdictional Magistrate as held by the Supreme Court in the matter of **Sakiri Vasu v.**

¹ (2014) 2 SCC 1

State of Uttar Pradesh and others² or filing complaint before the jurisdictional criminal Court under Section 200 of the Cr.P.C. 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 appearing for the parties on the question of admission.

5. In the case in hand, it would appear that the petitioner has made written complaint against respondents No.7 & 8 on 29/08/2015 before the Police Station Civil Lines, Bilaspur and thereafter on 31/08/2015 before the respondents No.3 & 4, but yet no action has been taken against them. 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

² (2008) 2 SCC 409

³ 2009 (I) MPJR-CG 73

remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. 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) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover, he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. 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 Cr.P.C. 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) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.”

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

⁴ 2011 (III) MPJR-CG 116

⁵ 2011 (I) CGBCLJ 129

⁶ (2007) 6 SCC 171

Cr.P.C. or other officer mentioned in Section 36 of the Cr.P.C. Despite approaching the Superintendent of Police or other officer as mentioned in Section 36 of the Cr.P.C., the petitioner is entitled to make an application to the Magistrate under Section 156(3) of the Cr.P.C. and also has a further remedy of filing complaint under Section 200 of the Cr.P.C. The Supreme Court in like situation has deprecated the practice of directly entertaining writ petition or petition under Section 482 of the Cr.P.C. 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 written 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