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HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 110 of 2016**

Sukhram Patel S/o Bhorelal Patel, Aged About 43 Years Elected Panch, Gram Panchayat Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh)
2. The Collector, District Balodabazar Bhatapara (Chhattisgarh)
3. The Superintendent Of Police, District Balodabazar Bhatapara (Chhattisgarh)
4. The Station House Officer, Police Station Gidhauri, District Balodabazar Bhatapara (Chhattisgarh)
5. The Sub Divisional Officer (Revenue), Bilaigarh, Distt. Balodabazar Bhatapara (Chhattisgarh)
6. The Chief Executive Officer, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)
7. Mewalal Shriwas S/o Bodhram, Aged About 55 Years R/o Village Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)
8. Dilip S/o Shobhram Patel, Aged About 42 Years R/o Village Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)
9. Shatruhan Pradhan S/o Hukum Lal, Aged About 30 Years R/o Village Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)
10. Chandrashekhar S/o Titru Patel, Aged About 30 Years R/o Village Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)
11. Ajay Sahu S/o Krishnalal, Aged About 32 Years R/o Village Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)
12. Shankar Lal Sahu S/o Sadhram, Aged About 65 Years R/o Village Kumhari, Janpad Panchayat, Kasdol District Balodabazar Bhatapara (Chhattisgarh)
13. Pyarelal S/o Santram Patel, Aged About 35 Years R/o Village Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)
14. Shailendra S/o Babulal Patel, Aged About 30 Years R/o Village Kumhari, Janpad Panchayat, Kasdol, District Balodabazar Bhatapara (Chhattisgarh)

---- Respondents

For the Petitioner : Shri K.K Singh, Advocate.
For the Respondent/ State : Shri Ashish Shukla, Government Advocate.
No.1 to 6.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28.08.2016

Heard.

1. Learned counsel for the petitioner submits that this petition has been brought under Article 226 of the Constitution of India with a prayer for issuance of directions for registration of the First Information Report against the respondents No. 7 to 14.
2. It is submitted by learned counsel for the petitioner that respondents No. 7 to 10, who are panch of Gram Panchayat, Kumhari have without any authority and without any approval of the Gram Panchayat, illegally realised royalty with respect to lime stone quarry to the amount of Rs.11,95,000/- and forged receipts were issued, which is not a part of the record of Gram Panchayat. Amount which was realised has been misappropriated by respondents No. 7 to 14. The complaint was made to Police Station Gidhauri, District- Balodabazar, by the petitioner vide Annexure P-1 and on the complaint of the petitioner, an inquiry was also conducted, after which Chief Executive Office, Janpad Panchayat, Kasdol, District- Balodabazar, Vide Annexure P-2, memo dated 22.01.2016 directed the Sarpanch/Secratroy of Gram Panchayat, Kumhari to lodge FIR against the concerned persons. Subsequent to that, no FIR has been lodged by respondent No.4. Hence, this

petition.

3. Learned counsel for the State No. 1 to 6 has submitted that on receiving the complaint from the Gram Panchayat Kumhari, an inquiry was made but petitioner and the office bearers of Gram Panchayat Kumhari have not cooperated with the inquiry, on demand of the Police Station, Gidhauri the documents receipt book etc, were not provided, hence, inability to record any FIR expressed in the report submitted, that is **Annexure R-1** 10.03.2016. It is further submitted that a proceedings of realization of the amount defalcated or Rs. 1,27,400/- was also initiated by Sub-Divisional Officer (Revenue), Bilaigarh, District-Balodabazar, and the same is concluded after the deposit of the amount defalcated,hence, the petitioner has no case .
4. Heard perused.
5. Considering the submission made and the documents placed on record it appears that the complaint made by the petitioner disclosed commission of cognizable offence, hence, prima-facie there had been duty of respondent No.4 to register the FIR and investigate the case as only an inquiry was conducted in which the documents were not provided by petitioner and others concerned with Gram Panchayat, Kumhari cannot be regarded as reasonable ground for non registration of FIR. Hence, in this case in view of the Judgment of the Supreme Court in case of **Lalita Kumari Vs. State of U.P and Ors. (2014) 2 SCC 1** it appears that respondent No. 4 has failed to perform the duty assigned to him.

6. For these reasons this petition is allowed at the motion stage.

Respondent No.4 is directed register the FIR on the basis of the complaint made by the petitioner and investigate the case as per law.

7. Accordingly, this petition stands disposed of.

Sd /-

(Rajendra Chandra Singh Samant)

Judge

Jamal