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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No.146 of 2017**

1. Sajid Khan S/o Mr. M. A. Khan, Aged About 40 Years R/o Ward No. 15 Ramhepur Lormi, District Mungeli (Chhattisgarh)
2. Pyarelal Sahu S/o Ramchandra Sahu, Aged About 30 Years R/o Village Saristal, Tahsil Lormi, District Mungeli (Chhattisgarh)
3. Ravi Chandra Sahu S/o Sidhram Sahu, Aged About 26 Years R/o Village Pithampur, Tahsil Lormi, District Mungeli (Chhattisgarh)
4. Shankar Jaiswal S/o Ramfal Jaiswal, Aged About 33 Years R/o Village Kanchanpur, Tahsil Takhatpur, District Bilaspur (Chhattisgarh)
5. Avish Yadav S/o Late Shri S.R. Yadav, Aged About 48 Years R/o Village Lormi, Tahsil Lormi, District Mungeli (Chhattisgarh)
6. Niraj Tiwari S/o Late Shri R. P. Tiwari, Aged About 36 Years R/o Village Lormi, Tahsil Lormi, District Mungeli (Chhattisgarh)

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary Department Of Home Affair, Mahanadi Bhavan, Mantralaya New Raipur, District Raipur (Chhattisgarh)
2. Superintendent Of Police, Mungeli District Mungeli (Chhattisgarh)
3. Station House Officer, Police Station Lormi, District Mungeli (Chhattisgarh)
4. Divisional Forest Officer, Mungeli District Mungeli (Chhattisgarh)
5. Lokmani Tripathi S/o Bhuneshwar Tripathi Aged About 48 Years Forest Guard Lormi Range, Present Address Post Near Maa Bharti School, Lormi District Mungeli (Chhattisgarh)

---- Respondents

For Petitioners : Mr. Sushobhit Singh, Advocate
 For State : Mr. Arun Sao, Dy.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/05/2017

(1) The petitioners herein have filed this writ petition seeking appropriate writ or direction commanding the respondent authorities to register criminal case against private respondents for cognizance of cognizable offence and holding thorough and speedy investigation in the matter.

(2) Mr. Sushobhit Singh, counsel appearing for the petitioners, would submit that the cognizable offence has been committed by the private respondents against which, a report has been lodged and thereafter, again the matter has been reported to the higher authorities including Superintendent of Police and Station House Officer, but yet, no action has been taken against them in the light of decision rendered by the Supreme Court in the matter of *Lalita Kumari Vs. Government of Uttar Pradesh and others*¹ and respondents be directed to proceed against private respondents.

(3) On the other hand, learned State counsel appearing on behalf of the State, would submit that if the petitioners are not satisfied with the action of the police authorities, they have alternative remedy of submitting an application under Section 156(3) of the Code of Criminal Procedure, 1973 (for short 'the CrPC'), before the jurisdictional Magistrate as held by the

¹ (2014) 2 SCC 1

Supreme Court in the matter of *Sakiri Vasu Vs. 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 Vs. 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, it would appear that the petitioners have made written complaint against private respondents on 17.02.2017 before the police authorities. 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 Police under Section 154(3) of 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) of 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

² (2008) 2 SCC 409

³ 2009 (I) MPJR-CG 73

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 of CrPC simply because a person has a grievance that his FIR has not been registered by the police, for 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*³ (supra), *Ram Prakash Katiyar Vs. State of Chhattisgarh & Ors.*⁴ and *Bhagwan Das Vs. State of Chhattisgarh & Ors*⁵.

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

4 2011 (III) MPJR-CG 116

5 2011 (I) CGBCLJ 129

6 (2007) 6 SCC 171

with Section 200 of the Code of Criminal Procedure, 1973 are to be adopted and observed.

(8) Thus, the petitioners have the efficacious statutory alternative remedy of approaching first 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 or other officer as mentioned in Section 36 of the CrPC, the petitioners are 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*² (*supra*), and followed by this Court also in above-stated case.

(9) In view of the above, the petitioners have not properly approached the above stated forums as rendered in *Sakiri Vasu*² (*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 petitioners and the writ petition is liable to be dismissed and it is accordingly dismissed in *limine* but without imposition of cost(s). However, the petitioners 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*¹ (supra).

Sd/-

(Sanjay K. Agrawal)
Judge

L/-