NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 198 of 2016

Gaukaran Bhaskar, S/o. Late Shri Sadaram Bhaskar, Aged About 50 Years, R/o. Village Nandghat Kura, Tahsil Nawagarh, District Bemetara (Chhattisgarh), Present R/o. Ward No. 12, Indrapuri, Tifra Bilaspur, Police Station Sirgitti, Civil & Revenue District Bilaspur (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh, Through : Secretary Department Of Home Affairs, Post & P. S. Rakhi, New Raipur, District Raipur (Chhattisgarh).
2. Director General Of Police, Raipur (Chhattisgarh).
3. The Inspector General Of Police, Bilaspur (Chhattisgarh).
4. The Superintendent Of Police, Bilaspur (Chhattisgarh).
5. The Officer In Charge, Police Station Sirgitti, Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh).
6. Kapil Ram Sahu, Head Constable Police Station Sirgitti, Bilaspur, Civil & Revenue District Bilaspur (Chhattisgarh).

-----Respondents

For Petitioner : Mr. Devesh G. Kela, Advocate
For Respondent/State : Mr. Anil S. Pandey, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

17/08/2017

Heard.

1. Counsel for the petitioner submits that petitioner purchased a vehicle from Shivam Tata Motors, Bilaspur on finance provided by Tata Motors Finance Company Limited. Petitioner paid some amount towards repayment of loan to one Ashish Shukla working as an agent of Tata

Motors Finance Company Limited, which were not deposited in the finance company by said Ashish Shukla. Hence the loan remained un-paid. Petitioner filed a written complaint in P.S. - Sirgitti, District Bilaspur against agent of the finance company alleging that agents are harassing him for repayment of loan pending against him and have threatened to seize the vehicle from his possession. Later on, one written complaint was submitted on 25.04.2016, before the Superintendent of Police alleging in it that amount of installments were handed over to Ashish Shukla and Subhankar and they have misappropriated the same, hence action be taken against them. But no action has been taken against the named persons. Hence this petition with prayer to direct registration of FIR and for investigation of case against concerned persons.

2. Counsel for the respondent No.1 to 5 submits that on the basis of compliant made by the petitioner, enquiry has been made and it was concluded by the enquiry officer, that there is a dispute with respect to payment of loan between the parties and no offence is made out. It is also submitted that petitioner has also option of approaching the Court having jurisdiction and filing complaint to initiate the criminal proceedings against the person concerned. Hence it is submitted that no case is made out and the petition be dismissed.

3. It is not a case in which the petitioner's complaint has not been entertained at all by respondents police authorities. On the contrary, it is found from the perusal of the documents and reply submitted by the respondents that an enquiry has been made and it has been found that dispute regarding non-payment of loan is existing between the petitioner and the finance company. Submission of petitioner that he

has paid huge amounts to one Ashish Shukla and person named Subhankan is simply oral statement without their being any documentary proof of the payment made. Whenever any allegation is made against any person it has to be substantiated with some kind of proof, in this case that proof could have been the receipt of the payment made. Petitioner does not make any mention of the receipt obtained by him for the payment made and neither any such document has been produced. Even if, the petitioner is in possession of such documents, which shows that he has made payments to the persons concerned and they have misappropriated it, then he has option of filing a complaint before the Court having jurisdiction with prayer to enquire into the case and proceed in accordance with law.

4. Hence on the basis of the reasons aforementioned, no reason is found to entertain this petition. Hence it is dismissed at the motion stage accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram