

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 594 of 2018**

- Smt. Vimla Bai W/o Shri Satyaprakash Aged About 27 Years Cast - Satnami, R/o Gram Jamkot, Thana - City Kotwali, Mungeli, District Mungeli.,

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Home Mahanadi Bhawan Mantralay Capital Complex Naya Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Superintendent Of Police District Mungeli Chhattisgarh.,
3. Station House Officer, P.S. Lormi, District Mungeli Chhattisgarh.,
4. Incharge Of Chouki Chilfi, P.S. Lormi, District Mungeli Chhattisgarh.,
5. Shri Satyaprakash S/o Mohit R/o Baitalpur, Chouki, Chilfi, P.S. Lormi, District Mungeli Chhattisgarh.,

---- Respondents

For Petitioner	:	Shri Mirza Hafeez Beig, Advocate
For Respondents 1 to 4/State	:	Shri Ravindra Agrawal, G.A.

Hon'ble Shri Justice Sanjay Agrawal**Order On Board****10.10.2018**

1. By way of this instant petition, the petitioner is praying for a direction to the respondent authorities to register an offence under Protection of Women from Domestic Violence Act, 2005 (for short, the Act of 2005) against respondent No.5 and his relatives apart from the provisions prescribed under Sections 294, 323, 506, 34 of the Indian Penal Code.
2. At the outset, no direction as such could be made while exercising the power under Article 226 of the Constitution of India, particularly when an appropriate provision in this regard is prescribed under Section 12 of the Act of 2005. The

provision is relevant for the purpose is reproduced herein under:

**“CHAPTER IV
PROCEDURE FOR OBTAINING ORDERS OF RELIEFS**

12. Application to Magistrate.--- (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act :

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

(2) The relief sought for under sub-section (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent :

Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off.

(3) Every application under sub-section (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto.

(4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court.

(5) The Magistrate shall endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.”

3. In view of the aforesaid specific provision, the petition as framed is totally misconceived and deserves to be dismissed in limine.
4. The petition is dismissed accordingly. No order as to costs.

Sd/-

**(Sanjay Agrawal)
Judge**

