

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(CR.) No. 366 of 2019

Vijay Kumar Sharma, S/o. Late Babulal Sharma, Aged About 52 Years,
R/o. Janki Dharamshala Road, Tehsil – Kharsiya, District -Raigarh,
Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur Chhattisgarh.
2. State of Chhattisgarh, Through : Superintendent of Police, District Raigarh Chhattisgarh.
3. Thana Incharge, Police Station -Kharsiya, Kharsiya Chhattisgarh.
4. Shankarlal Agrawal, S/o. Jankidas Agrawal, Aged About 76 Years, R/o. Janki Dharamshala Road, Tehsil - Kharsiya, District Raigarh Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Sameer Oraon, Advocate
For Respondent/State	: Mr. Jitendra Shukla, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/09/2019

Heard.

1. This petition under Article 226 of Constitution of India has been filed for issuance of appropriate direction for lodging of FIR against the accused persons.

2. It is submitted that the petitioner is in possession of the disputed property on the basis of gift by the predecessor of the respondent No.4, however, the respondent No.4 is now making a claim of ownership on the said property and in this regard the respondent No.4 along with 15-20 other persons had trespassed into the house of the petitioner, outraged the modesty of his wife and also attempted to strangle the younger son of the petitioner regarding which complaint was made but no action was taken by the police and notice under Section 155 of Cr.P.C. was issued.
3. It is submitted that the complaint made by the petitioner discloses commission of cognizable offence, therefore, order be passed for making preliminary enquiry in the complaint.
4. State counsel opposes the petition and submits that if the case is disposed of with direction for preliminary enquiry then there is no objection on behalf of the respondents No.1 to 3.
5. I have heard the learned counsel for the parties and perused the documents placed on record.
6. On perusal of the complaint, which is filed as Annexure P-1, it appears that there are certain allegation made by the petitioner regarding commission of offence by the respondent No.4 and his associates. However, all the details are not given in the allegation made and is also not very specific. The Hon'ble Supreme Court in case of ***Lalita Kumari Vs. Government of Uttar Pradesh & Others***, reported in ***(2014) 2 SCC 1*** at para 120.2 has held as under :-

“**120.** In view of the aforesaid discussion, we hold:

120.1. x x x x x

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not. ...”

5. Taking into consideration nature of the complaint and also considering the above law laid down by the Supreme Court, it appears to be a case in which there is a requirement of preliminary enquiry on the complaint made by the petitioner. Hence, this petition is disposed off with following direction :-

1. The respondents No.1 to 3 are directed to make a preliminary enquiry in the complaint filed by the petitioner and do the needful in accordance with law.

Sd/-
(Rajendra Chandra Singh Samant)
Judge