

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 19 of 2020

- Pramod Saraf S/o Late Kunjbihari Saraf Aged About 61 Years
R/o Barpali Chowk, Champa, Tahsil - Champa, District Janjgir -
Champa, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Home, Mantralay Mahanadi Bhawan, New Raipur, District
Raipur, Chhattisgarh.
2. Commissioner Bilaspur Division Bilaspur, Chhattisgarh.
3. Collector Janjgir Champa, District Janjgir Champa, Chhattisgarh.
4. Superintendent Of Police Janjgir Champa, District Janjgir ,
District : Janjgir-Champa, Chhattisgarh
5. Station House Officer Police Station Champa, District Janjgir
Champa, Chhattisgarh.
6. D. S. Uike The Then Tahsildar Champa, District Janjgir Champa,
Chhattisgarh, At Present Posted As Deputy Collector Bemetara,
District Bemetara, Chhattisgarh.
7. Pratap Chand Saraf S/o Late Balbhadra Prasad Aged About 69
Years R/o Barpali Chowk Champa, Tahsil - Champa, District
Janjgir Champa, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. F.S. Khare, Advocate.
For State	:	Mr. Kapil Maini, Panel Lawyer
For Respondent No.7	:	Mr. Ravindra Agrawal, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

06.09.2021

1. The petitioner has filed this writ petition under Article 226 of the
Constitution of India for registration of FIR against respondents
No. 6 and 7 for committing the offence of cheating.
2. The petitioner by way of this petition prays for following reliefs:-

10.1 That this Hon'ble Court may kindly be pleased to call

for the entire records pertaining to the case of the petitioner.

10.2 This Hon'ble Court may kindly be pleased to direct the respondent police authorities to register a criminal case against the respondent No. 6 and 7 for committing the offence.

10.3 That, this Hon'ble Court may kindly be pleased to grant any other relief, as it may deem fit.”

3. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against respondents No. 6 and 7.
4. The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of Uttar Pradesh & others**¹, has examined the issue holding that the petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Section 200 of the Cr.P.C. The Supreme Court has again considered and decided the issue in **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage**² and **M. Subramaniam & another Vs. S. Janaki & another**³.
5. Considering the facts and materials on record and in light of the law laid down by Hon'ble the Supreme Court in the above referred judgments, the present writ petition filed under Article 226 of the Constitution of India, is disposed of with liberty to the petitioner to file complaint under Section 200 of the Cr.P.C. or Section 156(3) of the Cr.P.C. before the court of Judicial Magistrate First Class having jurisdiction over the place of offence and in-turn Magistrate will follow the procedure prescribed under the provisions of the Cr.P.C.
6. It is made clear that this Court has not expressed any opinion on merits of the case whether the complaint discloses any criminal offence or not.

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

7. In view of the above, the instant writ petition is disposed of with the aforesaid liberty granted in favour of the petitioner.

**Sd/-
(Narendra Kumar Vyas)
Judge**

Deshmukh