

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 131 of 2015

- Santosh Vani S/o Prabhudas Vani Aged About 42 Years R/o Majhavapara, Jarhabhata, Ward No. 12, Tahsil Bilaspur, P.S. Civil Line, District Bilaspur, Chhattisgarh,

---- Petitioner

Versus

1. State Of Chhattisgarh S/o Through Department Of Home Police, Mantralaya, Naya Raipur, Distt. Raipur, Chhattisgarh.
2. State Of Chhattisgarh Inspector General Of Police, Rang Bilaspur, District Bilaspur, Chhattisgarh.
3. State Of Chhattisgarh, Superintendent Of Police, Bilaspur, Distt. Bilaspur, Chhattisgarh.
4. State Of Chhattisgarh. Through S.H.O.- Civil Line Bilaspur, Distt. Bilaspur, Chhattisgarh.
5. Kamal Kumar Gupta, aged about 33 years.
6. Rishi Mishra, aged about 29 years.
7. Rahul, aged about 27 years

all were the resident of Nariyal Koti Dayalband, Bilaspur(C.G.)

---- Respondents

For Petitioner	:	Mr. Hemant Gupta, Advocate.
For State/Res. No. 1 to 4	:	Mr. Ashish Gupta, P. L.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

23.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondents No.5 to 7.
2. The brief facts as projected by the petitioner are that the petitioner belongs to SC category and he is a daily wager and was taken short term credit from the respondent No.5 amounting to Rs.1,00,000/- for their marriage purpose for which he has given papers of land as guarantee. Out of loan amount he has

paid Rs.80,000/- and said that he will pay the rest amount with interest but the respondent No.5 had demanded more than that. Thereafter, the petitioner has filed a complaint before the respondent No.4 for illegal extortion of money, committed marpit, abuse in the name of cast, mother & sister and given threatening to kill him and his family. The petitioner has filed written complaint before respondents No. 2 to 4, but no action has been taken by them.

3. On the above factual matrix the complainant has prays for following relief(s):-

10.1 That the petitioner most humbly and respectfully prayed that the Hon'ble Court may kindly be pleased to issue appropriate writ directing the respondents No.3- 4 to register the FIR against the respondents No.5 to 7 and if others who were committed the offence, directly involve in the crime.

10.2 That the Hon'ble Court may further please to allow police protection to the petitioner and her family from any undue event caused by the respondents No. 5 to 7 through their rowdies.

10.3 That any other relief which Hon'ble Court thinks fit and proper in the light of the act done by the respondent, may also be granted.

4. 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. 5 to 7.

5. 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.**

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

Janaki & another³.

6. 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 156(3)/200 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.
7. 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.
8. 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**

parul