

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPCR No. 96 of 2021**

Smt. Samund Bai @ Samundiya Wife Of Bihari Aged About 50 Years
R/o Village Viharpur, Mohalla Kotwarpara, P.S. Lalpur, District Mungeli
Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Home Department, Mahtralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. Collector/district Magistrate Mungeli, District Mungeli Chhattisgarh.
3. Superintendent Of Police Mungeli, District Mungeli Chhattisgarh.
4. Station House Officer Police Station Lalpur, District Mungeli Chhattisgarh.
5. Anil Khande Son Of Sant Ram Khande R/o Villlage Viharpur Mohalla Mohanpara, P.S. Lalpur, District Mungeli Chhattisgarh.
6. Sunil Khande Son Of Sant Ram Khande R/o Village Viharpur, Mohalla Mohanpara, P.S. Lalpur District Mungeli Chhattisgarh.
7. Lokendra Kumar Sahu Documents Writer, Sub Registrar Office, Lormi District Mungeli Chhattisgarh.
8. Sanju Son Of Ramamamd Satnami R/o Barbaspur, District Mungeli Chhattisgarh.
9. Madhu Prasad Son Of Rameshar Das Satnami R/o Village Viharpur, P.S. Lalpur, District Mungeli Chhattisgarh.
10. Rup Prakash Son Of Atma Ram Satnami R/o Village Dharampura, District Mungeli Chhattisgarh.
11. Ashok Son Of Budhari Yadav R/o Village Pendri Talab, District Mungeli Chhattisgarh.
12. Shyamji Son of Kalam Prasad Sahu, R/o Manoharpur, District

Mungeli (C.G.).

13. Sukhchand Son Of Ramanand Satnami R/o Village Barbaspur,
District Mungeli Chhattisgarh, District : Mungeli, Chhattisgarh.

---- Respondents

For Petitioner	: Mr. Yogesh Chandra, Advocate.
For State	: Mr. Vinod Tekam, P. L.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

24.06.2021

1. The petitioner has filed instant writ petition under Article 226 of the Constitution of India alleging that the Police Authorities are not taking any action against respondent Nos. 5 to 13 for registering the offence under Sections 420 & 120 (B) read with Section 34 of I.P.C.
2. The brief facts as projected by the petitioner are that respondent Nos. 5 to 13 have assured the petitioner to get the Nirashrit Pension from the government also assured to make an arrangement of gas connection to the petitioner and for filing necessary application before the authorities they have put thumb impression of the petitioner on a blank paper. Thereafter, respondent Nos. 5 to 13 brought her before the Sub-Divisional Office, Lormi, District Mungeli, on 18.05.2015, 22.05.2015 & 13.08.2015 for execution of sale deed of a land situated at village Virchitpur and got executed the registered sale deed of Patwari Khasra No. 2/4 (admeasuring area 0.105, 0.101 & 0.202 hectare, respectively) but no sale consideration has been paid to her. Since the petitioner is illiterate lady, taking the advantage of her illiteracy, respondent Nos. 5 to 13 have committed offence of fraud under Sections 420 & 120(B) read with 34 of Indian Penal Code.

3. The petitioner has lodged a complaint before Station House Officer, Police Station Lalpur, District Mungeli, respondent No. 4 herein, on 05.01.2021, which was forwarded to respondent Nos. 2 & 3 also, but no action has been taken by the authorities concerned against the respondents No. 5 to 13. On above factual matrix, the petitioner prays for following relief (s) sought, which read thus:

“10.1. That, this Hon'ble Court may be pleased to direct the Police Authorities to take action against the respondent Nos. 5 to 12 and also the other accused persons by registering the Offence under Section 420 and 120(B) read with Section 34 of Indian Penal Code and to file the charge sheet against them and directing the Police Authority to deliver the vacant possession of subject matter of property of land pf petitioner.

10.2. Any appropriate writ, direction or order may also kindly be passed in favour of the petitioner, which this Hon'ble Court deems fit in the circumstances of the case.”

4. From perusal of relief (s) sought, it is quite clear that the petitioner wants that on the basis of complaint made by him, FIR should be registered against respondent Nos. 5 to 13 for committing the offence of dishonesty with the petitioner.
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 Supreme Court in the above referred judgments (supra), the present writ petition filed under Article 226 of the Constitution of India stands disposed of, with liberty to the petitioner to file complaint under Section 200 of the Cr.P.C. before the court of Judicial Magistrate First Class having jurisdiction over the place of offence and in turn Judicial Magistrate, First Class will follow the procedure prescribed under the provisions of the Cr.P.C while dealing with the complaint.
7. It is made clear that this Court has not expressed any opinion on merits of the matter i.e. whether the complaint discloses any criminal act or 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**

Amita