

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 97 of 2021

Padum Kumar Soni, S/o Late Gokul Prasad Soni, Aged About 50 Years, R/o Sonar Para Champa, P.S. Champa, District- Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of C.G. through the Secretary Department of Home, Mantralay Mahanadi Bhawan, New Raipur, District- Raipur (C.G.)
2. Superintendent of Police, Janjgir-Champa, District- Janjgir-Champa (C.G.)
3. Station House Officer, P.S. Champa, District- Janjgir- Champa (C.G.)
4. Bhuwan Lal Soni, S/o Late Ramji Soni, Aged About 57 Years, R/o Sonar Para Champa, P.S. Champa, District- Janjgir-Champa (C.G.)

---- Respondents

For Petitioner : Mr. F.S. Khare, Advocate.

For State : Mr. Sudeep Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

02.07.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 4 on the basis of complaint made by the petitioner.
2. The brief facts as projected by the petitioner are that the petitioner and respondent No. 4 are residing in same place at Sonar Para Champa, P.S. Champa, District- Janjgir-Champa (C.G.). On 02.07.2012, respondent No. 4 came in the shop of petitioner, taken silver 17576 gram (17.576 kg.) worth Rs. 8,34,860/- and Rs. 1,00,000/- cash with intention to cheat the petitioner and gave a false written receipt in the name of elder brother of the petitioner namely Laxminarayan alias Komal Soni.

The respondent No. 4 after taking silver and cash ran away from Champa and despite the efforts made by them, they could not search him out. In the year 2013, brother of the petitioner Laxminarayan alias Komal Soni died. Thereafter, the entire business of joint family was operating and running by the petitioner. In the year 2018, the petitioner got address of respondent No. 4, who was residing in Raipur, then along with one Dinesh Soni, the petitioner went to Raipur and asked him to return the silver and cash. Respondent No. 4 gave him false assurance that he is coming to Champa and he will return the silver and cash. This compelled the petitioner to lodge complaint against respondent No. 4 before Police Station- Champa on 04.09.2020 with all relevant document available with him, still no action has been taken by the police authorities against respondent No. 4-Bhuwan Lal Soni.

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 respondent No. 4- Bhuwan Lal Soni.
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.

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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.
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**