

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No. 139 of 2019

Ku. Jyoti Mandal D/o Late Shri Subhash Mandal, Aged about 16 years, Minor- Through Her Mother- Smt. Minoti Mandal Wd/o Late Shri Subhash Mandal, Aged about 35 years, R/o Subhash Nagar, Police Station- Gandhi Nagar, Tahsil- Ambikapur, District- Sarguja (C.G.).

---- Petitioner

Versus

1. State of Chhattisgarh, Through :- the Secretary, Department of Home and Police, Mantralaya, Mahanadi Bhawan, Raipur (C.G.).
2. The Director General of Police, Raipur, District- Raipur (C.G.).
3. The Inspector General of Police, Sarguja Range, Sarguja (C.G.).
4. The Superintendent of Police Sarguja, District- Sarguja (C.G.).
5. The Station House Officer, Police Station- Gandhi Nagar, District- Sarguja (C.G.).
6. Shatrudhan Varma R/o Near Sai Mandir, Subhash Nagar, Police Station- Gandhi Nagar, Tahsil- Ambikapur, District- Sarguja (C.G.).

---- Respondents

For Petitioner : Mr. Rishi Rahul Soni, Advocate.

For State/Respondent Nos. 1 to 5 : Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

02.08.2021

(1) This Instant writ petition under Article 226 of the Constitution of India has been preferred by the petitioner against inaction and willful negligence of respondent /police authorities in not registering the FIR against the accused persons.

(2) The brief facts as projected by the petitioner are that the respondent No. 6 has made an attempt to snatch the mobile to outraged her modesty and also threatening her to kill therefore, she has

made complaint before the Police Station- Ambikapur on 25.05.2018, but no action has been taken, thereafter, the petitioner filed another complaint before Superintendent of Police, Ambikapur for the alleged act committed by respondent No. 6 on 31.05.2018 and thereafter she also submitted complaint to the Inspector General of Police, Ambikapur but no action has been taken by the authorities till now.

(3) On above factual matrix the petitioner has prayed for following relief:

“10.1. The Hon'ble Court may kindly be pleased to call for the entire records pertaining to this case from possession of the respondents for it's perusal;

10.2 The Hon'ble Court may kindly be pleased to issue a suitable writ, order or direction commanding the respondent authorities to take action upon the complaints (Annexure P/1, P/2 & P/3) submitted by the petitioner by registering first information report against the respondent No. 6;

Any other relief, which this Hon'ble Court may deem if and proper, may also be passed in favour of the petitioners.”

(4) From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint made by him, FIR should be registered against accused person.

(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. Janaki & another**³.

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

(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 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