

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 168 of 2019

Mahesh Shukla, S/o Shri Surayapal Shukla, Aged About 44 Years, R/o Boirdadar, Raigarh, Disrtict- Raigarh (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through: the Principal Secretary Home Department, Mahanadi Bhawan, New Raipur (C.G.)
2. The Superintendent of Police Raigarh, District- Raigarh (C.G.)
3. The Station House Officer, Police Station- Chakradharnagar, Raigarh, District- Raigarh (C.G.)
4. Sita Devi Pandey, W/o Chandrashekar Pandey, Aged About 55 Years, R/o Boirdadar, Raigarh, Tehsil & District- Raigarh (C.G.)

---- Respondents

For Petitioner	:	Mr. Rakesh Pandey, Adv.
For State/respondent No. 1 to 3	:	Mr. Rakesh Sahu, Dy. G.A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

17.06.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 4 for committing offence under Sections 420, 465, 468, 471 of I.P.C.
2. The brief facts as projected by the petitioner in the writ petition, is that the petitioner is title holder and possession holder of land bearing Survey No. 66, plot No. 33, situated at Boirdadar, District- Raigarh. In the year 2011, respondent No. 4 filed an application under Section 250 of the Land Revenue Code before

Tahsildar, Raigarh stating that he is having plot at Boirdadar, District- Raigarh in Patwari Circle No. 13, Survey No. 66, Plot No. 33 and the petitioner has encroached over 200 sq.ft. of plot of the petitioner. She requested to remove the encroachment of the petitioner. She has also filed sale deed. According to the sale deed, area has been manipulated from 3900 sq.ft. to 9900 sq.ft. On the basis of forged document, respondent No. 4 has attempted to disposes the petitioner, as such, he made a complaint before respondent No. 3 on 20.12.2018, but no action has been taken, therefore, he made complaint before respondent No. 2 on 15.02.2019, but no action has been taken, as such, he has filed the present writ petition with prayer to register FIR against respondent No. 4.

3. On the above factual matrix, the petitioner has prayed for registration of FIR against respondent No. 4- Sita Devi Pandey for committing offence under Section 420, 465, 468, 471 of I.P.C.
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. before the court of Judicial Magistrate First Class having jurisdiction over the place of offence and in-turn Magistrate will

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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**

Arun