

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 214 of 2021

Meharban Singh, S/o Shri Darshan Singh, Aged About 51 Years, R/o Shop No. 57/54 'A', Mobile Gallery, Himalaya Complex, Supela, Bhilai, District- Durg (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Urban Administration and Development, Mahanadi Bhawan, Atal Nagar Raipur, District- Raipur (C.G.)
2. Director, Directorate Department of Urban Administration and Development, Indrawati Bhawan, Atal Nagar Raipur, District- Raipur (C.G.)
3. Commissioner, Municipal Corporation Durg, District- Durg (C.G.)
4. Superintendent of Police Durg, District- Durg (C.G.)
5. Station House Officer, Police Station- City Kotwali, Durg, District- Durg (C.G.)

---- Respondents

For Petitioner	:	Mr. Mahendra Dubey, Advocate.
For State	:	Mr. Ashish Gupta, Panel Lawyer.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

27.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against the persons responsible for committing cheating, forgery and misappropriation of fund with following relief:-
 - 10.1 This Hon'ble Court may kindly be pleased to issue an appropriate and suitable writ(s)/ order(s)/direction(s) directing the respondent police to register an FIR and investigate against the persons responsible for committing cheating, forgery and misappropriation of fund named and held guilty in the Enquiry Report as mentioned in the memorandum dated 23.11.2020 on the basis of complaint submitted by the petitioner to the respondent No. 4.
 - 10.2 This Hon'ble Court may kindly be pleased to issue an appropriate and suitable writ(s)/order (s)/ direction (s) directing the respondent No. 1 and 2 to take appropriate action against the persons responsible for committing cheating, forgery and misappropriation of fund named and held guilty in memorandum dated 23.11.2020.

- 10.3 This Hon'ble Court may kindly be pleased to pass any other order which may deem fit and proper under the facts and circumstances.
2. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against persons namely Chandrakant Sharma, Revenue Inspector, Pawan Yadav, Assistant Revenue Inspector and Sunil Agrahari, Commission for causing loss to the tune of Rs. 10,52,432/- to the corporation.
 3. 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.
 4. 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 or 156 (3) 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.
 5. 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.
 6. 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

¹ (2008) 2 SCC 409
² (2016) 6 SCC 277
³ (2020) 16 SCC 728