

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 238 of 2017

- Brajesh Kumar Singh @ Breejesh Kumar Singh Aged About 48 Years
R/o Vivekanand Nagar Nigam Colony, Near Maharana Pratap Chowk,
Bilaspur, Police Station Civil Line, District Bilaspur Chhattisgarh,
Present Address Shri Guruleth Works And Body, Sarai Shrinagar,
Haradi Bazar Police Station Kusmunda District Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home
And Police, Mantralaya, Mahanadi Bhawan, Raipur, District Raipur
Chhattisgarh
2. Director General Of Police, Raipur, District Raipur, Chhattisgarh
3. Inspector General Of Police, Bilaspur, District Bilaspur Chhattisgarh
4. The Superintendent Of Police, Korba, District Korba, Chhattisgarh
5. The Station House Officer, Police Station Kusmunda, District Korba,
Chhattisgarh
6. The Out Post In Charge, Police Station Kusmunda, District Korba,
Chhattisgarh
7. Shyamu Jaiswal, S/o Shri Parmatma Jaiswal, R/o College Chowk
Hardi Bazar, Police Station Kusmunda, District Korba, Chhattisgarh
8. Ramu Jaiswal, S/o Shri Parmatma Jaiswal, R/o College Chowk Hardi
Bazar, Police Station Kusmunda, District Korba, Chhattisgarh

---- Respondents

For Petitioner : Mr. R.R. Soni, Advocate.

For State : Mr. G.I. Sharan, Government Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

03.08.2021

1. The petitioner has filed this writ petition under Article 226 of the
Constitution of India for registration of FIR against respondents No. 7
and 8 for committing offence under Section 307/34 of I.P.C.
2. The brief facts as projected by the petitioner are that on 26.03.2017 at
about 10:30 pm, when petitioner was going home after parking his
car in front of the house of Gudda Jaiswal, respondents No. 7 and 8
made an attempt to crush him with intention of committing murder by

their vehicle Bolero No. C.G. 12/A.Q. 1151. The petitioner somehow saved himself. On the same date, complaint was made before the police station – Haradi Bazar but no action has been taken against respondents No. 7 and 8.

3. On the basis of above factual matrix, the following reliefs have been sought:-

“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 kind 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 complaint lodged by the petitioner at police Out Post – Haradi Bazar, Police Station – Kusmunda, District – Korba (C.G.)”

4. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against respondents No. 7 and 8.
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.
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

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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**

Deshmukh