

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 274 of 2021

- Pawan Gupta S/o Shri Mehi Lal Gupta, Aged About 41 Years R/o Ward No. 11, Mahendragarh, District Korea Chhattisgarh And Proprietor Of Anurag Hotel, Bhagat Singh Tihara, P.S. Manendragarh, District Korea Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Home Mantralaya, Mahanadi Bhavan, Atal Nagar, Naya Raipur, District Raipur Chhattisgarh,
2. Director Inspector General Of Police, Raipur, District Raipur Chhattisgarh
3. Inspector General Of Police, Ambikapur, District Sarguja Chhattisgarh
4. Collector, Baikunthpur, District Korea Chhattisgarh
5. Superintendent Of Police, Baikunthpur, District Korea Chhattisgarh
6. The Station House Officer, Police Station Manendragarh, District Korea Chhattisgarh
7. Pramod Yadav, Constable, Manendragarh, District Korea Chhattisgarh
8. Ajay Poya, Constable Manendragarh, District Korea Chhattisgarh
9. Anand, Constable Manendragarh, District Korea Chhattisgarh

---- Respondents

For Petitioner : Shri Ramsevak Soni, Advocate
For State : Shri G.I. Sharan, Government Advocate
For Respondent No. 7 : Shri Galib Dwivedi, Advocate
For Respondents No. 8 and 9 : Shri Pushkar Sinha, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

22.07.2021

1. The petitioner has filed this writ petition (Cr) under Article 226 of the Constitution of India contending that respondents No. 1 to 6

be directed to register FIR against respondents No. 7 to 9.

2. The brief facts as projected by the petitioner is that petitioner is the proprietor of Anurag Hotel situated at Manendragarh, District – Korea. On 17.02.2021, when his father advised him and his brother Abhay for some business purpose, they were standing in front of the shop. The Respondents No. 7 and 8 reached there without uniform and started using filthy language with his father and also committed marpeet with his father. When the petitioner tried to stop the same, respondent No. 7 and 8 also committed marpeet with him by using filthy language. They looted mobile phone of his brother. As per the directions given by respondents No. 7 and 8, the Station House Officer registered the case under Section 151 Cr.P.C. against the petitioner just after four hours of incident. But on his complaint no action has been taken against respondents No. 7 to 9.
3. On the above factual matrix, the petitioner has prayed for following reliefs:-
 - “(i) That this Hon'ble Court may kindly be pleased to issue an appropriate writ by directing the respondent No. 1 to 6 to take necessary steps upon complaint of the petitioner according to the law laid down by Hon'ble Court in the case of Lalita Kumari vs. State of U.P. in the interest of justice.
 - (ii) That this Hon'ble Court may kindly be pleased to direct the respondent authorities particularly respondent No. 6 to Register FIR against respondents No. 7 to 9 for using filthy language and committed marpeet with the petitioner and petitioner's father, in the interest of justice.
 - (iii) Any other relief which may be suitable in the facts and circumstances of the case, may also be granted.”
4. From perusal of reliefs sought, it is quite clear that petitioner wants that on the basis of complaint, FIR should be registered against respondents No. 7 to 9 namely Pramod Yadav, Ajay Poya and Anand.
5. The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of**

Uttar Pradesh & others¹, 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 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**

kishore

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728