

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 227 of 2019

Mohd. Nasim Ansari, son of Mohd. Ishaq Ansari, aged about 35 years, resident of Village – Kenwari (Pandri), Police Station - Raghunathnagar, Tahsil – Wadrafnagar, District Balrampur-Ramanujganj (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Home (Police) Department, Atal Nagar, Mantralaya, New Raipur (C.G.).
2. The Superintendent of Police, District- Balrampur (C.G.).
3. The Station House Incharge, Police Station, Basantpur, District- Balrampur-Ramanujganj (C.G.).
4. The Police Sub-Divisional Officer, Wadrafnagar, District- Balrampur- Ramanujganj (C.G.).
5. Bhupendra Kumar Yadav, Son of Shri Shyamsunder Yadav, aged about 32 years, resident of Village – Putur, Post- Katharkala, Block-Sagma, P.S. - Dhurki, District Gadhwah (Jharkhand) at present resident of Wadrafnagar, (Chandauripara), ward No. 8, Police Station – Basantpur, Tahsil – Wadrafnagar, District Balrampur – Ramanujganj (C.G.).

---- Respondents

For Petitioner : Mr. D.N. Prajapati, Advocate.

For State/Res. No. 1 to 4 : Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

11.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India against inaction on the part of the respondent authorities, whereby they have not taken any cognizance on the report made by the petitioner against the respondent No. 5 with regard to cognizable offence.
2. The brief facts as projected by the petitioner are that the petitioner has submitted a written complaint on 07.09.2016 alleging therein that accused – Bhupendra Kumar Yadav, with

the help of his brother, has abducted the petitioner unauthorizedly and took him in his house and also snatched the four signed cheques bearing Cheque No. 108084, 108085, 108086 & 108087, respectively and misused it by way of forgery. Despite making written compliant in this regard, respondents authorities, particularly respondent No. 3 – The Station House Incharge, Police Station, Basantpur, District Balrampur-Ramanujganj (C.G.) has not registered FIR against the accused and thereby provided shelter to the accused.

3. On above factual matrix the petitioner has prayed for following reliefs :-

“10.1. That, this Hon'ble Court may kindly be pleased to direct the respondent No. 3 to register the first information report on the complaint of the petitioner and proceed to enquire the same in accordance with the Code of Criminal Procedure.

10.2 To kindly grant any other relief which may be deem fit in the given facts and circumstances of the instant caes.

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 respondent No. 5 – Bhupendra Kumar Yadav.
5. In the matter of **Sakiri Vasu Vs. State of Uttar Pradesh & others**¹, their Lordships of the Supreme Court has examined the issue holding that the petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Section 200 or 156(3) 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

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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.

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**