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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 283 of 2020

1. Dhaneshwari Kaushik W/o Shri Minesh Kaushik Aged About 35 Years R/o- House No. 455, Youthsangpara, Bhaisma, Korba, Chhattisgarh
2. Rekha Vaishnav D/o Jagdish Vaishnav Aged About 36 Years R/o Katghora, Melagaon, Korba, Chhattisgarh
3. Chandrakala Vaishnav W/o Manmohan Vaishnav Aged About 37 Years R/o Katghora, Melagaon, Korba, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Kotwali, District Korba, Chhattisgarh
2. Rajendra Kumar Kashyap Son Of Sitaram Kashyap R/o Rampara, Ward No. 03, Near Panchayat Bhawan, Village Sandel, P.S. Uрга, Post Office Saraggundiya, District Korba (Chhattisgarh)

---- Respondents

For Petitioners	:	Ms. Akshara Amit, Advocate.
For State	:	Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

20.09.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India would seek direction of this Court to respondent authorities to register FIR against respondent No. 2.
2. Learned counsel for the petitioners would submit that respondent No. 2 has fraudulently taken money from the petitioner, therefore, he has filed present writ petition (criminal) with following reliefs:-

“10.1 The Hon'ble Court may kindly be pleased to direct the respondent police authorities to lodge FIR against the private respondent Rajendra Kumar

Kashyap for the offences punishable under Section 120B, 420, 467, 468 r/w Section 34 IPC.

10.2 The Hon'ble Court may kindly be pleased to direct the private respondent Rajendra Kumar Kashyap to return them Rs. 6 lakhs which was taken by him in advance from all the petitioners.

10.3 The Hon'ble Court may kindly be pleased to impose the cost of instant petition upon the private respondent;

10.4 The Hon'ble Court may kindly be pleased to grant any other relief which this Court thinks fit and proper in favour of the petitioners, in the interest of justice and equity.”

3. From bare perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR be registered against respondent No. 2.
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 Sections 200 of the Cr.P.C.or Section 156(3) of the Cr.P.C. before the court of Judicial

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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.

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**