NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 112 of 2016

- Smt. Vijay Laxmi Sharma W/o Shri Pramod Kumar Sharma, Aged About 47 Years Director Mothers Care Nursery School, Balco And R/o House No. 254- B/1, Balco Nagar, Korba, Tahsil And District Korba Chhattisgarh Civil And Revenue District Korba Chhattisgarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Ministry Of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh, Chhattisgarh
2. The Superintendent Of Police, District Korba Chhattisgarh, District : Korba, Chhattisgarh
3. The Station House Officer, Balco Nagar, Korba, District Korba Chhattisgarh, District : Korba, Chhattisgarh
4. Kalyan Shiksha Samiti, Through Its President/ Secretary, Minimata Higher Secondary School, Balco Nagar, Korba, Tahsil And District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Arpit Agrawal, Advocate.
For State	:	Mr. Vikas Shrivastava, P.L.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

22.09.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India and prays for following relief(s):-

A. A writ and/or an order in the nature of writ of appropriate nature do issue calling the relevant records pertaining to case of the petitioner from the respondent authorities concerned showing the action taken by them in respect of the reports lodged by the petitioner and her staff, for its kind perusal.

B. A writ and/or an order in the nature of writ of appropriate nature do issue directing the respondent authorities to take immediate steps on the reports of the petitioner and her staff and

members residing in the premises of the petitioner in respect of the cognizable offence reported by them and after investigation of filing final report/charge sheet against all those persons involved in the criminal activities and of attempting to dispossess the petitioner or causing hindrance in smooth functioning of the school and also allowing the petitioner to take all protective measures for protection of their interest in the school and of the students including installing & continuing to monitor the incidents by use of CCTV Camera and other electronic appliances meant for security on such terms as this Hon'ble Court may deem fit in the facts and circumstances of the case.

C. Any other relief which this Hon'ble Court may deem fit in the facts and circumstances of case.

D. Cost of the petition may also be awarded.

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 accused.

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 of the Cr.P.C.

---

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

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

parul