

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 296 of 2020

- Janak Ram Sahu S/o Late Shri Bisauha Ram Sahu Aged About 58 Years Caste- Teli, R/o Sanjay Nagar, Fingeshwar, Via- Rajim, Post And Police Station- Fingeshwar, District- Gariyaband, Chhattisgarh., District : Gariyabandh, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Home Department Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Superintendent of Police Gariyaband, District- Gariyaband, Chhattisgarh.,
3. Station House Officer Police Station Fingeshwar, District- Gariyaband, Chhattisgarh.,
4. Sandeep Sahu S/o Janak Ram Sahu Aged About 33 Years Caste- Teli, R/o Shivaji Chowk, Fingeshwar, Via- Rajim, Post And Police Station- Fingeshwar, District- Gariyaband, Chhattisgarh.,
5. Sonal Yadav S/o Late Shri Arun Yadav Aged About 39 Years R/o Vinayak Nagar, Fingeshwar, Via- Rajim, Post And Police Station- Fingeshwar, District- Gariyaband, Chhattisgarh.,
6. Dinesh Kamdi S/o Late Shri Poonam Kamdi Aged About 35 Years R/o Indane Gas Agency, Fingeshwar, Via- Rajim, Post And Police Station- Fingeshwar, District- Gariyaband, Chhattisgarh.,
7. Dheeraj Choube S/o Pramod Sharma Aged About 36 Years R/o Village- Bidora, Block And Post Fingeshwar, Via- Rajim, Post And Police Station- Fingeshwar, District- Gariyaband, Chhattisgarh.,
8. Tanu C/o Sandeep Sahu Aged About 34 Years R/o Shivaji Chowk, Fingeshwar, Via- Rajim, Post And Police Station- Fingeshwar, District- Gariyaband, Chhattisgarh.,
9. Bhanu C/o Sandeep Sahu Aged About 27 Years R/o Shivaji Chowk, Fingeshwar, Via- Rajim, Post And Police Station- Fingeshwar, District- Gariyaband, Chhattisgarh.,

---- Respondents

For Petitioner : Mr. S.B. Pandey, Advocate.

For State : Mr. Aditya Tiwari, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

09-08-2021

1. The petitioner has filed the present petition under Article 226 of the Constitution of India against illegality and irregularity act committed by the respondent authorities i.e., respondents No. 1 to 3 for not registering the FIR against the respondents No. 4 to 9.
2. The brief facts, as projected by the petitioner, are that the petitioner is working as an Upper Division Teacher in Government Middle School, Chaitra, Block Fingeshwar, District Gariyaband. He has three children including respondent No.4 herein and two daughters. Respondent No.4 studied only upto 10th standard and he used to damage the house hold articles and is also harassing his family members. Respondent No.4 without intimation to his family members went to out of station and thereafter he came back with two girls, who are respondents No. 8 & 9 to his parents house at Fingeshwar. When the petitioner objected to the act of respondent No.4, respondent No.4 along with his friends started quarreling to the petitioner and family members. The petitioner purchased the land which is situated at Shivaji Chowk, Fingeshwar, thereafter he constructed the shop upon the said land and the petitioner is paying the property to tax to Nagar Panchayat Fingeshwar. The petitioner has given the said shop to other persons on rent. Respondent No.4 reached to the shop and broke the lock of the shop and illegally possessed the said shop with forcefully. Respondent No.4 now tried to endorse his name in the official record with illegally and forcefully. The petitioner purchased the CC camera on 7-10-2019 in the name of her daughter Jagriti Sahu and arranged CC camera in that shop. Respondent No.4 with the direction of respondents No. 5 to 7 unauthorizedly entered the shop after breaking the door and threatened to kill his father and daughter. Being aggrieved by the act of respondent No.4 to 9, petitioner and his daughter Jagriti Sahu made complaints before the police authorities on

12-10-2019, 27-1-2020 and 3-3-2020 to register the FIR against respondents No. 4 to 9, but no action has been taken by the police authorities to register the FIR against them.

3. The petitioner has filed the present writ petition(Cr) before this Court and prayed for following reliefs:-

“10.1 That it is, therefore, humbly prayed that this Honorable Court may kindly be pleased to call for the entire record pertaining to the case of the petitioner for kind perusal of this Honorable Court..

10.2 That this Hon'ble Court may kindly be pleased to issue a writ/writs, direction/directions, order/orders to the respondent authorities to lodge FIR against respondents No. 4 to 9.

10.3 That, this Honorable Court may kindly be pleased to direct respondents No. 4, 8 and 9 to dispossess from the property of the petitioner.

10.4 That, this Honorable Court may kindly be pleased to grant any other relief(s) which is deemed fit and proper in the aforesaid facts and circumstances of the case”.

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 the respondents No. 4 to 9.

5. From perusal of relief sought, it is quite clear that the petitioner through his complaints dated 2-10-2019, 27-1-2020 and 3-3-2020 wants to register the offence against them respondents No. 4 to 9 for which the petitioner has remedy of filing a complaint before the concerned Judicial Magistrate First Class under Section 200 of the Cr.P.C.

6. 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**

¹ (2008) 2 SCC 409

Yashwant Dhage and M. Subramaniam & another Vs. S. Janaki & another².

7. Considering the facts and materials on record and in the light of the law laid down by Hon'ble the Supreme Court in the above cited judgments, the present writ petition filed under Article 226 of the Constitution of India, is disposed of with liberty to the petitioner to file a 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 shall follow the procedure prescribed under the provisions of the Cr.P.C.
8. 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.
9. In view of the above, the instant writ petition is allowed with liberty granted in favour of the petitioner to file complaint under Section 200 of the Cr.P.C.

Sd/-

(Narendra Kumar Vyas)
Judge

Raju

² (2020) 16 SCC 728