

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 210 of 2016

Mahendra Kumar Sahu, S/o Late Shri Jodhram Sahu, Aged About 30 Years, R/o Village Bilaspur, Tehsil Bilaigarh, P.S. Sarsiwan, District- Baloda Bazar- Bhatapara (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary Department of Home, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District- Raipur (C.G.)
2. Director General of Police Chhattisgarh, Police Headquarters, Raipur (C.G.)
3. Inspector General of Police, Raipur Range, Raipur (C.G.)
4. Superintendent of Police, Balodabazar, District- Baloda Bazar - Bhatapara (C.G.)
5. Station House Officer, Police Station Sarsiwan, District- Baloda Bazar- Bhatapara (C.G.)
6. Maruti Kumar Tripathi, S/o Shri Kashi Ram Tripathi, R/o Village Bilaspur, Tehsil Bilaigarh, P.S. Sarsiwan, District- Baloda Bazar- Bhatapara (C.G.)
7. Madhu Banchhor, presently posted and working as a Sub-Inspector, in the Police Station Sarsiwan, District- Baloda Bazar- Bhatapara (C.G.)

---- Respondents

For Petitioner	:	Mr. Vivek Kumar Agrawal, Adv.
For State/ res. No. 1 to 5	:	Mr. Rakesh Sahu, Govt. Adv.
For Respondent No. 6 & 7	:	Mr. Somkant Verma, Adv.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

30.06.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 6 & 7 in respect of the incident took place on 12.06.2015 & 07.04.2016.
2. The brief facts as projected by the petitioner are that the petitioner was constructing his house and when the petitioner was doing plaster of his side of wall on 12.06.2015, staircase

was broken by respondent No. 6 and started fighting to the petitioner and threatened him to immediately stop the construction work, further threatened that if he starts the construction work again, the aforesaid wall would be demolished and abused the petitioner by using filthy language. The petitioner lodged complaint on 13.06.2015.

3. On 07.04.2016, the petitioner went to Police Station- Sarsiwan, District- Baloda Bazar- Bhatapara to inform that he is going to start the construction work, thereafter, respondent No. 7 started beating the petitioner and abused the petitioner with filthy language and also threatened that he will falsely implicate in rape case of his wife. Respondent No. 6 & 7 have broken mobile phone of the petitioner.
4. On 25.04.2016, the petitioner made a complaint before respondent No. 4- Superintendent of Police, Baloda Bazar, District- Baloda Bazar-Bhatapara, but no action has been taken on the complaint and FIR has not been registered against respondent No. 6 & 7 by Police Station- Sarsiwan, District- Baloda Bazar- Bhatapara till date.
5. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaints, FIR should be registered against respondent No. 6 & 7 and also to start investigation in respect of the incident dated 12.06.2015 & 07.04.2016.
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 Yashwant Dhage**² and **M. Subramaniam & another Vs. S. Janaki & another**³.

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

7. 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.
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 disposed of with the aforesaid liberty granted in favour of the petitioner.

**Sd/-
(Narendra Kumar Vyas)
Judge**