

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No. 445 of 2021

Ku. Subhadra Shukla, D/o – Rajiv Lochan Shukla, Aged about 21 Years, R/o – Village – Sirouli, P.S. - Manendragarh, District Korea (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Home (Police) Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (C.G.)
2. Superintendent of Police, Korea (C.G.)
3. Station House Officer, P.S. - Manendragarh, District Korea (C.G.)

---- Respondents

For Petitioner	: Mr. Varun Sharma, Advocate.
For State/Respondents	: Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

23.07.2021

(1) This Instant writ petition under Article 226 of the Constitution of India has been preferred by the petitioner against inaction and willful neglect of respondent No. 3- Station House Officer in registering the FIR against the accused persons.

(2) The brief facts as projected by the petitioner are that the petitioner, who is an unmarried woman, is residing near Hanuman Temple, Sirauli, the accused persons namely Rakesh Kumar Shukla and his wife- Smt. Mamta Shukla, who are the uncle and aunt of the petitioner, were constructed their home near temple encroaching upon government land. The present petitioner is working as Teacher in Sanskrit Ved Vidya Pitham Shri Neelkanth Hanumat Sevashram at Sirauli. The uncle & aunt of the petitioner, with an intention to capture

the temple and school namely Ved Vidya Pitham Shri Neelkanth Hanumat Sevashram, started creating pressure by calling their relatives namely Ramrekha and Urmila from Uttar Pradesh. On 11.12.2019, Ramrekha outraged the modesty of petitioner and her sister by beating them and abusing in front of the public near the temple. It is further contended by the learned counsel for the petitioner that uncle and aunt of the petitioner on 31.01.2020, forcefully broken the premises of the School and while trespassing the property, outraged the modesty of the petitioner. The petitioner, on the same day, approached the police and lodged the complaint before the Police Station, Manendragarh, but the police did not register the FIR. Thereafter, the petitioner approached the Superintendent of Police, Baikunthpur on 13.02.2020 and prayed for direction of lodging the FIR but no action was taken by the police against the accused persons.

(3) On above factual matrix the petitioner has prayed for following relief:

“10.1. That, the Hon'ble Court may kindly be pleased to direct the respondent No. 3 to act in accordance with law and register the First Information Report (FIR) and investigate the matter.

10.2 That, any other relief in the discretion of this Hon'ble Court. Any other relief, which the Hon'ble Court deems fit and proper under the facts and circumstances, may also be provided to the petitioner.”

(4) From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint made by him, FIR should be registered against accused persons.

(5) The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of Uttar Pradesh & others**¹, has examined the issue holding that the

¹ (2008) 2 SCC 409

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.

(6) 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.

(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**

Amita

² (2016) 6 SCC 277

³ (2020) 16 SCC 728