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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 450 of 2021

Ravi Sherwani, S/o- Shri Vasu Ram Sherwani, aged 35 years, partner
M/s. Royal Palms, R/o Rajiev Nagar, Dist: Bilaspur (C.G.).

---- Petitioner

Versus

1. State of Chhattisgarh, Through: The Secretary, Home Ministry, Bhavan, Mantralaya, Raipur (C.G.).
2. The Superintendent of Police, Distt.: Bilaspur (C.G.).
3. Station House Officer, P.S.- Vidhan Sabha Dist: Raipur, (C.G.).
4. Shyam Das Daheriya, aged 59 years, S/o Late Shri Rajaram Daheriya,
5. Smt. Chaitin Bai Daheriya, aged 76 years, S/o Late Shri Rajaram Daheriya,

Both Respondent Nos. 4 & 5 are R/o vill: Akolidih/Khapri, Post: Nardaha, Tah: Arang, P.S.- Vidhan Sabha District- Raipur, (C.G.).

---- Respondents

For Petitioner : Mr. Devershi Thakur, Advocate.

For State/Res. No. 1 to 3 : Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

20.07.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India with a prayer that respondent Nos. 1 to 3 may kindly be directed to register the FIR against the respondent No. 4 & 5.
2. The brief facts as projected by the petitioner are that the petitioner has submitted a written complaint on 14.03.2020 at police Station, Vidhan Sabha, District Raipur contending that respondent No. 4 had entered into a multiple sale agreement with regard to the land bearing Khasra No. 81/02 admeasuring area 0.40 hectares situated at Vill : Akolidih and the petitioner

had executed a sale agreement with respondent No. 4 for a sum of Rs.11,20,000/- in the year 2012. In pursuance of the said agreement, Rs. 10,90,000/- has already been paid by the petitioner and thereafter on 19.3.2015, again Rs. 2,00,000/- has been paid. However, respondent Nos. 4 & 5 sold the land to one Smt. Meena Yadav on 24.3.2017, therefore, petitioner sent a registered notice for performing the contract on 27.08.2019, which has not been given due consideration by them. Thereafter, the petitioner has made complaint to the Police Station, Vidhan Sabha, Raipur on 14.03.2020 and FIR has not been registered against the respondents.

3. On above factual matrix the petitioner has prayed for following reliefs :-

“10.1. That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/directing concerned police station to register an FIR and investigate the entire matter, and the same may be monitored by this Hon'ble Court.

10.2 Any other relief or reliefs that may be deemed fit and proper in the facts and circumstances of the case may kindly be granted also”.

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 respondent No. 4 & 5 namely Shyam Das Daheriya & Smt. Chaitin Bai Daheriya.
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 petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Sections 156(3) or 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

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 Sections 156(3) or 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