

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 433 of 2021

Hirau Nishad, S/o Shri Manglu Nishad, Aged About 44 Years, R/o Medhpar Bazar, Post- Sagar, Tahsil- Takhatpur, District- Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Director General of Police, Police Head Quarter, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)
2. Superintendent of Police Bilaspur, District- Bilaspur (C.G.)
3. Station House Officer, Police Station- Hirri, District- Bilaspur (C.G.)

---- Respondents

For Petitioner : Mr. Abhishek Singh, Advocate.

For State : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

15.07.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against accused persons on the basis of complaint made by the petitioner.
2. The brief facts as projected by the petitioner are that the petitioner has executed a sale agreement with one Rajkumar Yadav, S/o Late Jhaduram Yadav for land bearing Khasra No. 334/2, area admeasuring 1 acre, situated at Patwari Halka No. 33 R.N.M.- Sakri, Tahsil- Takhatpur, District- Bilaspur (C.G.). As per the agreement, cost of the land was Rs. 5,50,000/- out of which, the petitioner was paid Rs. 1,37,000/- to Rajkumar Yadav as advance in presence of two independent witnesses and it was agreed that the remaining amount will be paid at the time of execution of registration of land, thereafter, Rajkumar Yadav received Rs. 1,00,000/-, 1,00,000/-, 77,000/-, 50,000/- & 31,000/- on 28.11.2017, 27.03.2018, 01.03.2019 & 01.05.2019 & 05.06.2019 respectively, thus, total Rs. 4,95,000/- has already

been received by Rajkumar Yadav and only Rs. 55,000/- is remaining for payment as per the sale agreement. Despite receiving such amount, Rajkumar Yadav is not taking steps for registration of land, which nothing but dishonest intention and to cheat the petitioner. The petitioner has made a complaint on 10.08.2020 (Annexure P/2) before Station House Officer, Hirri, District- Bilaspur (C.G.) and on his complaint, proceeding under Section 155 has only been initiated.

3. 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 accused persons.
4. 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.
5. 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.
6. 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.

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

7. 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**

Arun