

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 465 of 2021

- Nicky Upadhyay W/o Shashwat Upadhyay Aged About 27 Years
R/o Subham Vihar, Near Lafagarh Gas Godown, Mangla, Police
Station Civil Lines, Tahsil And District- Bilaspur, Chhattisgarh,

---- Petitioner

Versus

1. State of Chhattisgarh Through- Secretary, Department Of Home
Affairs, Mahanadi Bhavan, Mantralaya, Atal Nagar, Raipur, District-
Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Inspector General Of Police, Bilaspur, District- Bilaspur,
Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Superintendent Of Police, Bilaspur, District- Bilaspur, Chhattisgarh,
District : Bilaspur, Chhattisgarh
4. Station House Officer, Police Station Civil Line, Bilaspur, District-
Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. Station House Officer, Police Station Mahila Thana, Bilaspur,
District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner : Mr. Amit Kumar, Advocate.

For State : Mr. Aditya Tiwari, Dy. Advocate General

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

02-08-2021

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 5 for not registering the FIR against the responsible persons.
2. The brief facts, as projected by the petitioner, are that the marriage was solemnized between the petitioner and Shashwant Upadhyay on 16-2-2020 at Narayan Mangalam, Bilaspur, District Bilaspur according to Hindu customs. At the

time of marriage, the father of the petitioner has given dowry Rs.6,50,000/-cash, gold and silver ornaments and some domestic articles. After passing of 2 – 3 months the family members of her in-laws started tampering, harassing and threatening and demanded Rs.5,00,000/- more as dowry. The petitioner has informed about the incident and demand of dowry to her parents. She has been deserted by the family members of her in-laws in the month of February 2021. Though the father of the petitioner tried to solve the matter, but the family members of her in-laws refused his request and demanded Rs.5,00,000/- as more dowry. It is further contended that on 16-3-2021 the petitioner filed a written report against her husband, mother-in-law, brother-in-law and sister-in-law before the Police officials, but they have not registered any FIR against them.

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

“10.1 That this Hon'ble Court may kindly be pleased to call for the records pertaining to the case of the petitioner from possession of the respondent for its kind perusal..

10.2 That this Hon'ble Court may kindly be pleased to direct the respondent authorities to take legal action against the said responsible persons in accordance with law and register the FIR against them.

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 responsible persons.
5. From perusal of relief sought, it is quite clear that the petitioner through her complaint dated 16-3-2021 wants to register the offence against the responsible persons, 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 Yashwant Dhage** and **M. Subramaniam & another Vs. S. Janaki & another**².
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

¹ (2008) 2 SCC 409

² (2020) 16 SCC 728