

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 484 of 2021

- Dukhram Pal S/o Shri Budhram Pal Aged About 69 Years R/o Durga Mandir Chowk, Tahsil Kharora, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through Its Secretary, Department Of Home Mantralaya, Mahanadi Bhavan, Naya Raipur, Raipur Chhattisgarh.,
2. Superintendent Of Police Raipur, District Raipur Chhattisgarh.,
3. The Station House Officer Police Station Gole Bazar, Raipur, District Raipur Chhattisgarh.,
4. Kutub Ali @ Sama Bhai S/o Vitasat Ali Aged About 63 Years Kundra Para, Infront Of Station Gali, P.S. Gudhiyari, District Raipur Chhattisgarh At Present Resident Of Durga Mandir Chowk, Tahsil Kharora, District Raipur Chhattisgarh.,
5. Smt. Tikeshwari W/o Ram Sewak Vaishnav Aged About 36 Years R/o Math, P.S. Kharora, District Raipur Chhattisgarh At Present R/o Naya Talab, Gudhiyari, House Of Pusha Dubey, Near Dewangan Shop, P.S. Gudhiyari, District Raipur Chhattisgarh.

---- Respondents

For Petitioner : Mr. Rekhraj Baghel, Advocate.

For State : Mr. Sudeep Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

30-07-2021

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 3 for not registering the FIR against the respondents No. 4 and 5.
2. The brief facts, as projected by the petitioner, are that the petitioner lodged a report in Police Station Gole Bazar, Raipur against respondents No.4 and 5 alleging that the petitioner is

uneducated person aged about 69 years old and prior to seven months, the accused persons/respondents No. 4 to 5 approached him to develop better relationship and thereafter they obtained his signature on the paper forcefully. After sometime the petitioner came to know from the Police Station Gole Bazar,. Raipur that one person namely Alakh Niranjana has made complaint to the concerned police Station Gole Bazar, Raipur against the accused persons/respondents No. 4 to 5 that it is the respondents No. 4 to 5 who prepared forged will deed in which sign of the petitioner was mentioned as witness and on the basis of said forged will deed, respondent No.5 filed an application for mutation before the Additional Tahsildar wherein respondent No.5 filed executed affidavit of the petitioner's statement under Order 18 Rule 4 of Cr.P.C., with the forged signature of the petitioner. Thereafter, the petitioner has applied for certified copy of the said proceeding and made complaint against respondents No. 4 and 5 before the concerned Right to Information Officer under the Right to Information Act, 2005. Thereafter, the petitioner also made complaint to the Superintendent of Police Raipur and Station House Officer, Police Station Gole Bazar, Raipur, against respondents No. 4 and 5, but no action has been taken by them nor registered 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 issue a writ of mandamus, order or direction to respondents No. 1 to 3/police authorities to register FIR against respondents No. 4 and 5 on the basis of complaint made by the petitioner, in the interest of justice.

10.2 That this Hon'ble Court may kindly be pleased to issue an appropriate writ by directing the respondents No. 1 to 3 to take necessary steps

upon complaint of the petitioner according to the law laid down by Honorable Court in the case of Lalita Kumar vs. State of UP., in the interest of justice”.

4. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of his complaint, FIR should be registered against the respondents No. 4 and 5.
5. From perusal of relief sought, it is quite clear that the petitioner through his complaint dated wants to register FIR against the respondents No.4 and 5 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.

¹ (2008) 2 SCC 409

² (2020) 16 SCC 728

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