

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 483 of 2021

- Bhunesh Chandrakar S/o Shri Krishna Kumar Chandrakar Aged About 27 Years R/o Village Bundeli, Thana City Kotwali Mungeli, Tahsil And District Mungeli Chhattisgarh.

----- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Home Department , Mantralaya Mahanadi Bhawan, Capital Complex New Raipur , District Raipur Chhattisgarh.
2. Inspector General Of Police Bilaspur Division Bilaspur , District Bilaspur Chhattisgarh.
3. Superintendent Of Police Mungeli, District Mungeli Chhattisgarh.
4. Station House Officer Police Station City Kotwali Mungeli , District Mungeli Chhattisgarh.
5. Sanjay Yadav Constable Police Station City Kotwali Mungeli , District Mungeli Chhattisgarh.
6. Giriraj Parihar Constable Police Station City Kotwali Mungeli , District Mungeli Chhattisgarh.
7. Dayal Gawaskar Constable Police Station City Kotwali Mungeli , District Mungeli Chhattisgarh.
8. Atul Singh Constable Police Station City Kotwali Mungeli , District Mungeli Chhattisgarh.

----- Respondents

For Petitioner	:	Mr. Sunil Sahu, Advocate.
For State	:	Mr. Rakesh Sahu,Dy.G.A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

04.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for direction to respondents No.2 to 4 to register FIR against respondents No.5 to 8 for the offence of House trespass, outraging the modesty of women of the family and loot on 24.04.2021.
2. The brief facts as projected by the petitioner are that the petitioner has filed the written report before respondent No.3

against respondents No.5 to 8 for the offence of house trespass, outraging the modesty of women of the family and loot also, beating him and his family members badly and also threatened them to implicate in a criminal case if petitioner's family could not fulfill their illegal demand of Rs.50,000/-.

3. On the above factual matrix the complainant has prays for following relief(s):-

10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ by directing the respondent No.2 to 4 to register the FIR in the matter against the respondent No.4 to 8 on the basis of report and statement.

10.2 Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner.

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.5 to 8.

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 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

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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

parul