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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 510 of 2021

Samirkant Chouhan, S/o Shri Jageshwar Ram, Aged About 28 Years, Caste-
Chik, R/o Village- Harradand, Police Station Kunkuri, District- Jashpur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Home (Police) Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur (C.G.)
2. The Superintendent of Police, Jashpur, District- Jashpur (C.G.)
3. The Station House Officer, Police Station Kunkuri, District- Jashpur (C.G.)
4. Pankaj Singh, S/o Late Virendra Singh, R/o D-80, Ghajipur, Police Station- Ghajipur, Delhi- 110096.

---- Respondents

For Petitioner : Mr. J.K. Saxena, Advocate.

For State : Mr. Rakesh Sahu, Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

12.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 4 on the basis of complaint made by the petitioner.
2. The brief facts as projected by the petitioner are that the petitioner desirous to purchase an old car, had requested his friend Ganesh Yadav to arrange old vehicle and on his advice, the petitioner went to Delhi with him and contacted with respondent No. 4 for providing him assistance to purchase a second hand car. The petitioner transferred Rs. 25,000/- on account of respondent No. 4 for purchasing the car. The consideration amount of car was Rs. 3,60,000/- out of which, he had paid total Rs. 2,50,000/- and requested for arranging for remaining amount. Thereafter, the petitioner had paid entire amount as agreed between the owner of the vehicle.
3. The respondent No. 5 even after receiving the entire amount has lodged FIR for theft of the car bearing registration No. UP/80/CD/5015. The respondent No. 4 has obtained the custody of the car by showing himself as owner of the car. The respondent No. 4 fraudulently snatched the car belongs to the petitioner, therefore, the

petitioner filed complaint on 17.01.2020, but the police has proceeded the complaint under Section 155 of the Cr.P.C. for non-cognizable offence and advised the petitioner to approach the Court.

4. It is further contended by learned counsel for the petitioner that on the basis of the complaint, no action has been taken by the police, therefore, the respondent authorities be kindly directed to register FIR against respondent No. 4.
5. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaints, FIR should be registered against respondent No. 4- Pankaj Singh.
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**² and **M. Subramaniam & another Vs. S. Janaki & another**³.
7. 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.
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 disposed of with the aforesaid liberty granted in favour of the petitioner.

Sd/-
(Narendra Kumar Vyas)
Judge

Arun

¹ (2008) 2 SCC 409
² (2016) 6 SCC 277
³ (2020) 16 SCC 728