

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 428 of 2017

Rakesh Verma, S/o Late Shri Gopinath Verma, Aged About 45 Years,
R/o Madhya Nagri Chowk, Bilaspur, Tahsil & District- Bilaspur (C.G.)

---- Petitioner

Versus

1. The State of Chhattisgarh, through: the Secretary, Department of Home, Mantrayala, Mahanadi Bhawan, Naya Raipur (C.G.)
2. D.G.P. Police Head Quarter Raipur, District- Raipur (C.G.)
3. Inspector General of Police, Bilaspur Zone, Bilaspur (C.G.)
4. Superintendent of Police, Near Nehru Chowk, Bilaspur (C.G.)
5. The Station House Officer, Police Station- Pendra, Block & Tahsil- Pendra, District- Bilaspur (C.G.)
6. Santosh Kumar Gautam, S/o Late Keju Singh Gautam, Aged About 63 Years, (Retd. Tahsildar), R/o Ganga Nagar, Sector-2, Left Gali near Mahavir Apartment, Mangla Road, Bilaspur (C.G.)
7. Ashok, S/o Birbhan, Aged About 40 Years, Caste- Jaat, R/o Village- Dharamgarh, Dobal, Post- Dablain, Tahsil- Narwana, District- Zind (Haryana)

---- Respondents

For Petitioner	:	Mr. Anshuman Shrivastava, Advocate.
For State	:	Mr. Aditya Tiwari, Panel Lawyer.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

14.07.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 6 & 7 on the basis of complaint made by the petitioner.
2. The brief facts as projected by the petitioner are that the petitioner was Patwari in revenue department, who took charge on 12.09.2011 of Patwari Halka No. 9, Gram Panchayat, Pendariya (Kanchan-deeh), Block & Tahsil- Pendra, District- Bilaspur (C.G.). In the year 2012, some villagers complained about Government land bearing Khasra No. 552, Patwari Halka No. 09, Village- Pendra being Government land, sold and purchased by private parties. The petitioner examined the

revenue record and found that Khasra No. 552 was illegally divided into Khasra No. 552/01, 552/02 & 552/03 for which he sought direction from Tahsildar to correct the record on 24.04.2012, but Tahsildar threatened him to not to disclose this to anyone otherwise, Tahsildar will oust him from service. The Government land was illegally sold respondent No. 7 by making a registered sale deed in the registrar office. The petitioner has made representation before the revenue authorities as well as the police authorities to investigate fraud committed by respondent No. 6 & 7. Respondent No. 6/Tahsildar lodged FIR on 05.12.2012 against the petitioner and two other persons who were seller of the Government land in the sale deed saving himself and respondent No. 7. The petitioner was surrendered and arrested on 14.12.2012 and vide order dated 30.08.2016 passed by Judicial Magistrate First Class, Pendraroad, District-Bilaspur in Criminal Case No. 100/2015, acquitted from the charges levelled against him, wherein respondent No. 6/Tahsildar was prosecution witness No. 5. The petitioner has admitted that the entry in the revenue records was made by him and also admitted certain other facts. After acquittal, the petitioner again made a representation to revenue authorities as well the police authorities to book the actual culprits for the crime of sale of Government land, but no action has been taken on the complaint made by the petitioner, therefore, the petitioner filed this petition with following relief:-

“10.1 That, the Hon'ble Court may kindly be pleased to issue a writ of mandamus or any appropriate writs/order directing the respondent No. 5, Police Station- Pendra to register FIR u/s 420, 467, 468, 471 & 474 of the Indian Penal Code against respondent No. 6 & respondent No. 7.

10.2 That, the Hon'ble Court may kindly be pleased to issue a writ of mandamus or any appropriate writs/ order directing the respondent No. 5, Police Station- Pendra to investigate the case and collect evidence required for the sections above mentioned.

10.3 Any other relief, which may be deemed fit and proper in the facts and circumstances of the case,

may also be allowed.”

3. 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. 6- Santosh Kumar Gautam & respondent No. 7- Ashok for committing offence under Sections 420, 467, 468, 471 & 474 of I.P.C.
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.
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

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