

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 536 of 2021

- Satyendra Jaiswal S/o Late Shri Devi Prasad Jaiswal, Aged About 48 Years R/o Sadar Road, Opposite Purana Thana, Takhatpur, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Home Mantralaya, Mahanadi Bhavan, Naya Raipur, Raipur Chhattisgarh.
2. Inspector General Of Police, Bilaspur, District Bilaspur Chhattisgarh.
3. Superintendent Of Police, Bilaspur, District Bilaspur Chhattisgarh.
4. The Station House Officer, Police Station Takhatpur, District Bilaspur Chhattisgarh.
5. Janak Tamrakar S/o Late Shri Manohar Lal Tamrakar, R/o Takhatpur, Ward No. 07, District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. K.P.S. Gandhi, Advocate.
For State/Res. No. 1 to 4	:	Mr. Devendra Pratap Singh, Dy. Advocate General.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

24.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 5 for committing offence of cheating and theft.
2. The brief facts as projected by the petitioner are that the petitioner is a follower of Shri Ram Janki Mandir. The temple is managed and controlled by the Shri Ram Janki Baba Mandir Trust which is a public trust bearing registration No. A-16. He has filed present petition on the count that respondent No. 5 is misusing the seal of the trust. He has made complaint against

respondent No. 5 before Thana-Incharge, Police Station – Takhatpur on 13.07.2021, thereafter before the Superintendent of Police, Bilaspur on 19.07.2021 but no action has been taken by them. Therefore, he has filed present petition with following reliefs:

- “(i) That, this Hon'ble Court may kindly be pleased to issue an appropriate writ by directing the respondents No. 1 to 4 to take necessary steps upon complaint of the petitioner against respondent No. 5 according to the law laid down by Hon'ble Court in the case of *Lalita Kumari vs. State of U.P.*, in the interest of justice.
- (ii) That, this Hon'ble Court may kindly be pleased to direct the police authorities to register the case committed under Section 420, 467, 468, 471 of the IPC against the respondent No. 5 within stipulated time, in the interest of justice.”

3. 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- Janak Tamrakar.
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 Sections 200 of the Cr.P.C. as well as 156(3) of the Cr.P.C. before the court of Judicial

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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**