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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No. 534 of 2021

- Ku. Hemlata Pillay aged 63 years D/o Late Shri T. Subramaniyam Pillay R/o. House No. 3/765, Near Tuli Niwas, Shanti Nagar, Raipur, District- Raipur (C.G.).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Home Capital Complex, Atal Nagar, Raipur, District- Raipur (C.G.).
2. Senior Superintendent of Police, Collectorate Parisar, Collectorate, Raipur, Dist. Raipur (C.G.).
3. Police Station Civil Lines through Thana In-charge, Civil Lines, Raipur, District Raipur (C.G.).

---- Respondents

For Petitioner	: Mr. J. K. Gupta, Advocate
For State	: Mr. Udhaw Sharma, G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

08.09.2021

(1) By way of filing the instant writ petition under Article 226 of the Constitution of India, the petitioner is seeking direction to respondent Authorities for registering the FIR on the basis of the complaint made by the petitioner.

(2) Learned counsel for the petitioner would submit that the petitioner has made complaints against the persons namely- Kiran Pillay, Priti Sharma, Mahendra Sharma, Saurabh and his mother and father for physical and mental torture before the Senior Superintendent of Police, Raipur on 06.05.2021 and 23.05.2021 but till date no action has been taken against them nor any FIR has been registered against

them.

(3) On above factual matrix the petitioner has prayed for following relief:

“(i) That the Hon'ble Court may be kind enough to call the record of the petitioner.

(ii) That the Hon'ble Court may be kind enough to issue an appropriate Writ/Writs, order/orders, direction/directions to command the respondent No. 1 to 3 to take appropriate action on the complaints made by the petitioners under Indian Penal Code and to register FIR against the named persons.

(iii) That the Hon'ble Court may be kind enough to pass appropriate writ/order or directions as deemed fit in the circumstances of the case.”

(4) From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaints made by her, FIR should be registered against the persons namely- Kiran Pillay, Priti Sharma, Mahendra Sharma, Saurabh and his mother and father

(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 or 156(3) of the Cr.P.C. before the court of

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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.

(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**