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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 517 of 2021

Alfred Shah, S/o Late Shri Henry Shah, aged about 58 years,
R/o Mandalpara, Shubhash Nagar, Ambikapur, Police Station
Gandhi Nagar, Tahsil Ambikapur, District Sarguja, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Home Affairs, Mahanadi Bhavan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. Inspector General of Police (I.G.) Ambikapur Range, I.G. Office, Ambikapur, District Sarguja, Chhattisgarh.
3. Superintendent of Police (S.P.), S.P. Office, District Sarguja, Chhattisgarh.
4. Station House Officer, Police Station Gandhi Nagar, District Sarguja, Chhattisgarh.
5. Shri Chanchlesh Sonwani, S/o Shri Satish Sonwani, Aged About 32 years, (Constable) Police Station Gandhi Nagar, Tahsil Ambikapur, District Sarguja, Chhattisgarh.
6. Smt. Roslin Sonwani, W/o Shri Chanchlesh Sonwani, Aged about 30 years, R/o Police Compound, Police Station Gandhi Nagar, Tahsil Ambikapur, District Sarguja, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Dhiraj Kumar Wankhede, Adv.

For State/Res. No. 1 to 4 : Mr. Devendra Pratap Singh, Dy. A. G.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

16.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India against inaction on the part of the respondent authorities, whereby they have not taken any cognizance on the report made by the petitioner against the respondents No. 5 & 6 with regard to cognizable offence..
2. The petitioner has filed the instant petition before this Court mainly contended that the respondent No. 5 and 6 have taken

the passbook & ATM of the petitioner herein and they strenuously admitted him to Drug De-Addiction Center from June 2014 to March, 2015 at Bilaspur and From October, 2015 to December, 2015 at Ambikapur where he was not given proper food and made to sleep in floor without any clothes. The Respondent Nos. 5 & 6 also made a false complaint before Chhattisgarh State Power Distribution Ltd. contending that petitioner married to another woman, as such, the pension may be discontinued and they continuously torturing physically and mentally to the petitioner.

3. On above factual matrix the petitioner has prayed for following reliefs :-

- “a) That, Hon'ble Court may kindly be pleased to issue the appropriate writ/writs, order/orders, direction/directions by directing the respondent authorities to conduct preliminary enquiry / investigation against Respondent No. 5 and 6 and register F. I. R. against them and comply the guidelines issued by the Hon'ble Supreme Court of India in the case of **Lalita Kumari Vs. Government of Uttar Pradesh & Others**¹ and to file final report before the competent criminal Court having jurisdiction, in the interest of justice.
- b) Pass appropriate orders, in favour of the petitioner, so far as the cost of the litigation and other miscellaneous expenses are concerned.
- c) Grant any such relief in favour of petitioner as this Hon'ble Court may deem fit in the interest of Justice.”

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 & 6.

5. In the matter of **Sakiri Vasu Vs. State of Uttar Pradesh &**

¹ (2014) 2 SCC 1

others², their Lordships of the Supreme Court has examined the issue holding that the petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Section 200 or 156(3) of the Cr.P.C. The Supreme Court has again considered and decided the issue in ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage***³ and ***M. Subramaniam & another Vs. S. Janaki & another***⁴.

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 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

Amita

² (2008) 2 SCC 409

³ (2016) 6 SCC 277

⁴ (2020) 16 SCC 728