

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 381 of 2018

Basant Kumar Dhidhore, S/o Prem Dhidhore, Aged About 42 Years,
R/o Village- Pendridhih, Police Station Hirri, Tahsil- Bilha, District-
Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through: the Secretary, Home Department,
Mantralaya, Mahanadi Bhawan, New Raipur, District- Raipur
(C.G.)
2. Inspector General of Police, Range Bilaspur, District- Bilaspur
(C.G.)
3. Superintendent of Police Bilaspur, District- Bilaspur (C.G.)
4. Station House Officer, Police Station Chakarbhatta, District-
Bilaspur (C.G.)
5. Arvind Nishad, S/o Sarju Nishad.
6. Arvind Nagesh, S/o Asha Ram Nagesh.
7. Somu Garhewal, S/o Sharad Garhewal.

Respondent No. 4 to 7 are R/o Pendridhih, Police Station Hirri,
Tahsil- Bilha, District- Bilaspur (C.G.)

---- Respondents

For Petitioner : Mr. S.P. Sahu, Advocate.

For State : Mrs. M. Asha, Panel Lawyer.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

13.07.2021

1. The petitioner has filed this writ petition under Article 226 of the
Constitution of India for registration of FIR against respondent
No. 5 to 7 for offence punishable under Section 302 & 201 of
I.P.C. on the basis of complaint made by the petitioner.
2. The brief facts as projected by the petitioner are that son of the
petitioner namely Vikash Dhidhore, aged about 17 years, was
student, who left the home on 17.07.2017 and did not return. On
27.08.2017, dead body of Vikash Dhidhore was found near

railway track. Panchnama was prepared by Police Station-Chakarbhata and postmortem was also done. It was doubted by the petitioner that respondent No. 5 to 7 have murdered his son and kept the dead body near railway track. The petitioner made complaints on 18.09.2017, 09.02.2018 & 22.02.2018 to police authorities to register FIR against respondent No. 5 to 7 for committing offence under Sections 302 & 201 of I.P.C., but no action has been taken by the police authorities on the complaints made by the petitioner.

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. 5- Arvind Nishad, respondent No. 6- Arvind Nagesh & respondent No. 7- Somu Garhewal for committing offence under Sections 302 & 201 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.

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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