

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 514 of 2021

- Badrika Prasad Yadav S/o Laxminarayan Yadav Aged About 28 Years R/o H. No. 132, Ward No. 8, Village- Balpur, P.S.- Sarsiva, District- Baloda- Bazaar- Bhatapara, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, District- Raipur, Chhattisgarh.
2. Director General Of Police Head Quarter- Raipur, District- Raipur, Chhattisgarh.
3. Superintendent Of Police District- Baloda- Bazaar- Bhatapara, Chhattisgarh.
4. Station House Officer Police Station- Sarsiva, District- Baloda- Bazaar- Bhatapara, Chhattisgarh.
5. Firtu Ram S/o Panchram Yadav Aged About 19 Years R/o Village- Balpur, P.S.- Sarsiva, District- Baloda- Bazaar- Bhatapara, Chhattisgarh.
6. Panchram S/o Late Jagat Ram Yadav Aged About 60 Years R/o Village- Balpur, P.S.- Sarsiva, District- Baloda- Bazaar- Bhatapara, Chhattisgarh.
7. Bhuri Bai W/o Panchram Yadav Aged About 55 Years R/o Village- Balpur, P.S.- Sarsiva, District- Baloda- Bazaar- Bhatapara, Chhattisgarh.
8. Santosh Yadav S/o Late Jagatram Yadav Aged About 40 Years R/o Village- Balpur, P.S.-Sarsiva, District-Baloda Bazaar- Bhatapara, Chhattisgarh.
9. Smt. Parmila W/o Shri Santosh Yadav Aged About 35 Years R/o Balpur, P.S.- Sarsiva, District- Baloda Bazaar- Bhatapara, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Suresh Kumar Verma, Advocate.

For State/Res. No. 1 to 4 : Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

13.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for the direction for proper investigation

against respondents No. 5 to 9 and also for registration of FIR against respondents No. 5 to 9 for committing offence under Sections 156(3) and 200 of CrPC.

2. The brief facts as projected by the petitioner are that on 31.03.2021 at about 6:00PM in the evening the respondent No.6 is seating near the house of the petitioner, therefore, the respondent No.6 alleged him that he has abused him thereafter, respondent No.6 abused and assaulted to petitioner with hand and fist. Thereafter, the respondents No.5 to 9 also came from their house and also assaulted with hand and fist to petitioner which has caused injury to petitioner. The petitioner has submitted that he has made a complaint for registration of offence against respondents No. 5 to 9 on 31.03.2021 12.07.2021 but no action has been taken by the Police.

3. On the above factual matrix the complainant has prays for following relief(s):-

10.1 That, this Hon'ble Court may kindly be called for the record relating to petitioner.

10.2 That, this Hon'ble Court may kindly be directed the respondent authority No.1 to 4 to proper investigation against the respondents No.5 to 9 and lodged the FIR (First Information Report) against respondents No.5 to 9.

10.3 That, this Hon'ble Court may kindly be directed the respondent authority No. 1 to 4 to register the FIR against the respondents No.5 to 9.

10.4 Any other relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner together with cost of the petition.

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 respondents No. 5 to 9.

5. The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of**

Uttar Pradesh & others¹, 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 Dhage²*** and ***M. Subramaniam & another Vs. S. Janaki & another³***.

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 156(3) & 200 of the CrPC 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

parul

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