

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No. 528 of 2021

1. Imran Khan, S/o Shri Banne Khan, aged about -36 years, R/o Ward No. 7, Akaltara, in front of Masjid, P.S. & Tahsil – Akaltara, Distt. Janjgir-Champa, Civil and Revenue District – Janjgir-Champa (C.G.).

2. Smt. Johara Khan, W/o Shri Parvej Khan, aged 59 years, Ward No. 7, Akaltara, in front of Masjid, P.S. & Tahsil – Akaltara, Distt. Janjgir-Champa (C.G.).

---- Petitioners/Complainant

Versus

1. State of Chhattisgarh, through Secretary Home (Police) Department, Mahanadi Bhavan, Mantralaya, New Raipur, Distt. Raipur (C.G.).

2. The Inspector General of Police, Police (Home), Department, New Raipur, Distt. Raipur (C.G.).

3. The Superintendent of Police, Janjgir, Distt. Janjgir-Champa (C.G.)

4. The Collector, Janjgir, Distt. Janjgir-Champa (C.G.).

5. The Station House Officer, Pamgarh, Distt. Janjgir Champa (C.G.).

---- Respondents

For Petitioners : Mr. Manoj Kumar Sinha, Advocate

For State/Respondents : Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

19.08.2021

(1) The petitioners have 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 action on various applications/complaints made by the petitioners against the accused persons with regard to cognizable offence.

(2) The brief facts as projected by the petitioners are that they are residents of Ward No. 7, Akaltara, District Janjgir-Champa, have made complaints to the respondents/authorities contending that some of the villagers abused & assaulted them and also their construction work has

been stopped. It has been further stated that petitioners' civil work or construction of canal has been interfered with and stopped, as such, the petitioners are facing financial crises and also their construction materials have also been stolen. On 23.06.2021 the petitioner made a complaint and on 03.07.2021, the petitioners again made a complaint to the police authorities stating the facts and requested to take action against the accused persons, who have threatened to kill abused and disturbed in construction work, but till date no action was taken by the respondents authorities against the accused persons.

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

“10.1 The the Hon'ble Court be pleased to call for the entire records of the petitioner's case.

10.2 That the Hon'ble Court be further pleased to direct the respondent authorities to make investigation in accordance with the procedure established by law and register FIR against the accused persons name above in the complaints.

10.3 Any other order that the Hon'ble Court deems fit and necessary in the circumstances of the case be also passed.

10.4 That the cost of the petitioner be also awarded to be petitioner.

(4) From perusal of reliefs sought, it is quite clear that the petitioners want that on the basis of various complaints/applications made by them, FIR should be registered against accused persons.

(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 petitioners have 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.**

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

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 petitioners 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

³ (2020) 16 SCC 728