

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 541 of 2021

- Sandeep Kumar Pathak S/o Shri Shiv Kumar Pathak Aged About 34 Years R/o Village Gangrel Colony , District Dhamtari Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. The Director General Of Police Office Of The Director General Of Police, Naya Raipur, District Raipur Chhattisgarh.
3. The Superintendent Of Police Dhamtari, District Dhamtari Chhattisgarh.
4. Station House Officer City Kotwali Dhamtari , District Dhamtari Chhattisgarh.
5. Sukhdev Ram Sinha S/o Late Shri Bali Ram Sinha Aged About 59 Years R/o Rampur Ward Dhamtari, Tahsil And District Dhamtari Chhattisgarh.
6. Om Prakash Sahu S/o Kishun Ram Sahu R/o Ekta Nagar , Aamtalab Road, Post Dhamtari, Tahsil And District Dhamtari Chhattisgarh.
7. Thanuram Tarak R/o Tarak Cycle Store, Dhamtari, Post Dhamtari, Tahsil And District Dhamtari Chhattisgarh.

---- Respondents

For Petitioner : Mr. A.S. Rajput, Advocate.

For State/Res. No. 1 to 4: Mr. G.I. Sharan, Government Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

24.08.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondents No. 5 to 7.
2. The brief facts as projected by the petitioner are that respondents No. 6 and 7 are the brokers of property, they

contacted the petitioner to sell Khasra No. 1100/48 Rakba 3500 Sq.ft. situated at Rampur Ward Dhamtari, during the verification of the documents, it was found that the registered owner of the above property is respondent No. 5, the petitioner contacted with him and he said that respondents No. 6 and 7 are authorised to sell his land. The deal was finalised between the parties for purchase of the said land for a sale consideration of Rs. 25,51,000/-, agreement deed was executed. The petitioner has paid Rs. 13,15,000/- to respondent No. 5. Later respondent No. 5 did not execute the registry of the land. He made a written complaint before the police station City Kotwali, Dhamtari on 22.07.2020 but no action has been taken. Thereafter, he made complaint before the Superintendent of Police on 13.11.2020 as well as on 01.12.2020 but no action has been taken.

3. On the above factual matrix, he has filed the present writ petition (criminal) with following reliefs:-

“10.1 That, this Hon'ble Court may kindly be pleased to issue a suitable writ or writs, order or orders by directing the respondent No. 2 to 4 to register the F.I.R. of cognizable offence against the respondent No. 5 to 7 and further investigate the matter according to the direction given by Hon'ble Supreme Court in the matter of Lalita Kumari vs. Govt. of U.P. and Others.

10.2 Any other relief/reliefs which may deem fit and proper in the facts and circumstances of the case, may also be allowed.
“

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- 7.
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

¹ (2008) 2 SCC 409

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 Sections 200 of the Cr.P.C. as well as 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

Deshmukh

² (2016) 6 SCC 277

³ (2020) 16 SCC 728