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HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 400 of 2018

Pramod Kumar, S/o Late Sitaram, Caste- Patwa, Aged About 46 Years, Occupation Former, R/o Village Sulsuli, Police Station Trikunda, Tahsil-Wadrfnagar, District- Balrampur-Ramanujganj (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through: Secretary of Home Ministry Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District- Raipur (C.G.)
2. The Director General of Police, Police Head Quarter, Chhattisgarh, Raipur, District- Raipur (C.G.)
3. The Inspector General of Police, Surguja, Range, District- Surguja (C.G.)
4. The Superintendent of Police, Balrampur, District- Balrampur-Ramanujganj (C.G.)
5. The Station House Officer, Police Station Trikunda, District Balrampur- Ramanujganj (C.G.)
6. Mukhdev Prasad, S/o Late Sitaram, Aged About 60 Years, R/o Village Sulsuli, Police Station Trikunda, Tahsil Wadrafnagar, District- Balrampur- Ramanujganj (C.G.)
7. Direndra Kumar, S/o Mukhdev Prasad, Aged About 36 Years, R/o Village Sulsuli, Police Station Trikunda, Tahsil Wadrafnagar, Balrampur- Ramanujganj (C.G.)
8. Jintendra Kumar, S/o Mukhdev Prasad, Aged About 33 Years, R/o Village Sulsuli, Police Station Trikunda, Tahsil Wadrafnagar, Balrampur- Ramanujganj (C.G.)

---- Respondents

For Petitioner : Mr. A.K. Yadav, Advocate.

For State/ res. 1 to 5 : Mr. Rakesh Sahu, Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

08.07.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondent No. 6 to 8.
2. The brief facts as projected by the petitioner are that petitioner

has purchased the land on 07.02.1991 by registered sale deed from Sukhdev, S/o Sitaram and he is peaceful possession of the land bearing Khasra No. 1557/03, 1559 total area 1.631 Hectare and his name has already been recorded in the revenue record. The petitioners are five brothers namely Lakhan Patwa (died), Mukhdev Patwa, Sukhdev Patwa (died), Vinod Patwa (died) & Pramod Kumar Patwa (petitioner himself), but respondent No. 6- Mukhdev Prasad has mentioned his name as Sukhdev Patwa by committing forgery in all the school documents of his sons as he mentioned his name as Sukhdev Patwa in place of Mukhdev Prasad by overwriting. Some criminal cases are pending before Additional Sessions Judge, Ambikapur, wherein also name of respondent No. 6 has been mentioned as Sukhdev Patwa, as is evident from statement recorded before learned Additional Sessions Judge, Ambikapur. Thus, respondent No. 6 to 8 have committed offence punishable under Sections 419, 420, 467, 468, 471, 120-B of I.P.C.

3. The petitioner has submitted written complaint on 12.10.2017 & 13.03.2018 before Police Station- Trikunda to register FIR against respondent No. 6 to 8, but no action has been taken against them. The petitioner has against submitted complaint on 12.04.2018 to Police Station- Trikunda, Superintendent of Police, Balrampur, District- Balrampur- Ramanujganj, Inspector General of Police, Surguja Range and higher authorities to register FIR against respondent No. 6 to 8, but no action has been taken against them, therefore, he has filed the present writ petition to register FIR against respondent No. 6 to 8.
4. 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. 6- Mukhdev Prasad, respondent No. 7- Dhirendra Kumar & respondent No. 8- Jitendra Kumar for committing offence under Sections 419, 420, 467, 468, 471, 120-B of I.P.C.

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 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 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.
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

Arun

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