

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 454 of 2019

- Tosh Kumar Dhruv S/o Vishnu Prasad Dhru Aged About 32 Years R/o Village Madhuvan Post Raytug, Police Station Patewa, District Mahasamund Chhattisgarh. **---- Petitioner**

Versus

1. State of Chhattisgarh Through The Secretary, Department Of Home Affairs (Police) New Raipur, Mantralaya, New Raipur, Civil And Revenue District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Director General Of Police Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Inspector General Of Police Range, Mahasamund, District Mahsamund Chhattisgarh., Chhattisgarh
4. Superintendent Of Police Mahasamund, Civil And Revenue District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
5. District Magistrate Mahsamud Civil And Revenue District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
6. Station House Officer Police Station Patewa District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
7. Ramnath S/o Baldu Gond Aged About 65 Years R/o Village Patewa, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
8. Mahetaru S/o Baldu Gond, Aged About 63 Years R/o Village Patewa, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
9. Kalyan Gond S/o Baldu Gond Aged About 63 Years R/o Village Patewa, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh
10. Nandini Diwan Aged About 23 Years R/o Village Khtta, Post Khatta, Police Station Patewa, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh **---- Respondents**

For Petitioner : Mr. Punit Ruparel, Advocate.

For State/respondents : Mr. Sudeep Verma, Dy. G.A.
No. 1 to 6.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

27-08-2021

1. The petitioner has filed the present petition under Article 226/227 of the Constitution of India against illegality and irregularity act committed by the respondent authorities i.e., respondents No. 1 to 6 for not registering the FIR against the respondents No. 7 to 10.
2. The brief facts, as projected by the petitioner, are that on 29-8-2012 the petitioner has executed a contract with the respondents No. 7 to 9 to purchase the property bearing Patwari Halka No. 17 Ra.Ni.Ma, Patewa, Tahsil and District Mahasamund (CG) in a sum of Rs.1,40,000/- wherein the contract was signed by respondents No. 7 to 9 and they have shown their willingness to sell out the aforesaid property to the petitioner. Thereafter, the respondents No. 7 to 9 without informing the petitioner sold out the aforesaid property to respondent No.10 by registered sale deed. By this way forgery and cheating has been committed by them. In this connection, the petitioner made a written complaint to Police Station to register FIR and take action against respondents No. 7 & 10, but they have not registered any FIR against them.
3. The petitioner has filed the present writ petition before this Court and prayed for following reliefs:-
 - 10.1 That this Hon'ble Court may kindly be pleased to direct the respondent authority(respondent No.6) to register an FIR against the respondents No. 7 to 10 for the offence punishable under Sections 420, 467, 472, 120-B read with Section 34 of IPC.
 - 10.2 That this Hon'ble Court may kindly be pleased to direct the respondents No. 1 to 6 to take action against the culprit respondents No. 7 to 10.
 - 10.3 Cost of the petition may also be granted to the petitioner
 - 10.4 Any other relief which this Honorable Court deems fit and proper, may also kindly be granted to the petitioner in the interest of justice”.

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 the respondents No. 7 to 10.
5. From perusal of relief sought, it is quite clear that the petitioner through his complaint dated 17-6-2019 wants to register the offence against the respondents No. 7 to 10, for which the petitioner has remedy of filing a complaint before the concerned Judicial Magistrate First Class under Section 156(3) or 200 of the Cr.P.C.
6. 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 and M. Subramaniam & another Vs. S. Janaki & another**².
7. Considering the facts and materials on record and in the light of the law laid down by Hon'ble the Supreme Court in the above cited judgments, the present writ petition filed under Article 226/227 of the Constitution of India is disposed of with liberty to the petitioner to file a complaint under Section 156(3) or 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 shall follow the procedure prescribed under the provisions of the Cr.P.C.
8. 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.

¹ (2008) 2 SCC 409

² (2020) 16 SCC 728

9. In view of the above, the instant writ petition is allowed with liberty granted in favour of the petitioner to file complaint under Section 200 of the Cr.P.C.

Sd/-

(Narendra Kumar Vyas)
Judge

Raju