

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 587 of 2021

1. Santosh Kumar Nishad, S/o late Shri Laxman Nishad, aged about 32 years, Occupation Government Employee working as Assistant Grade-III posted at Government Higher Secondary School Sonbarsa, Police Station Kharsiya, District Raigarh (C.G.), permanent Resident village Bonda, Police Station Sariya, District Raigarh (C.G.)

2. Smt. Shakuntala Nishad, W/o late Shri Laxman Nishad, aged about 64 years, Occupation Housewife, R/o village Bonda, Police Station Sariya, District Raigarh (C.G.)

---- Petitioners

Versus

1. The State of Chhattisgarh, Through: the Secretary, Department of Home Affairs, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur (C.G.)
2. The Director General of Police, Police Headquarter office Raipur, District Raipur (C.G.)
3. The Inspector General of Police, Range Bilaspur, District Bilaspur (C.G.)
4. The Collector, Raigarh, District Raigarh (C.G.)
5. The Superintendent of Police, Raigarh, District – Raigarh (C.G.)
6. The Officer in Charge of Police Station – Sariya, District – Raigarh (C.G.)

---- Respondents

For Petitioners : Mr. Roop Naik, Advocate.

For State/Res. No. 1 to 3 : Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

15.09.2021

1. The petitioner has 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 the complaint filed by the petitioners for registration of FIR against the accused persons namely Shyam Kumar Kenwat, Chain Singh Samle, Mangloo Ram Sahu and other persons with

regard to cognizable offences.

2. The brief facts as projected by the petitioner are that on 12.05.2018 the marriage was solemnized between Santosh Kumar Yadav, petitioner No. 1 herein and Smt. Ganga Kenwat as per Hindu rites & custom. On 30.06.2018, wife of petitioner No. 1 left the house of petitioners and was residing at her parental house. Despite several efforts made by petitioners for bringing back wife of the petitioner No. 1 she denied to come back in her matrimonial house and also abused them. Thereafter, Shyam Singh Samle, father of Smt. Ganga Kenwat, Chain Singh Samle, Ex. M.L.A. and Manglooram Sahu and some other unknown persons came in the house of petitioners with weapons and threatened to cause of death to the petitioner No. 1 by showing gun, at that time, the local villagers came there and saw the entire incident. Therefore, the petitioners made a complaint on 03.12.2019, 01.03.2020 and 07.03.2020 before the various authorities narrating the entire story of the incident on 30.06.2018 to register the FIR against the alleged persons but till date the police did not register the FIR against the alleged persons.
3. On above factual matrix the petitioners have prayed for following reliefs :-
 - “10.1. That, this Hon'ble Court may kindly be pleased to issue appropriate writ and pleased to direct the respondents No. 1 to 3 and 5 & 6 to register F.I.R. against Shyam Kumar Kenwat, Chain Singh Samle, Manglooram Sahu and other person on the basis of complaint submitted by the petitioners which prima facie discloses the commission of cognizable offences.
 - 10.2 That, this Hon'ble Court may kindly be pleased to issue any appropriate writ, direction or order may also kindly be passed in favour of the petitioners, which this Hon'ble Court deems fit in the circumstances of the case.”
4. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of application/complaint, FIR should be registered against the Shyam Kumar Kenwat, Chain Singh Samle, Mangloo Ram Sahu and other persons.

5. In the matter of **Sakiri Vasu Vs. State of Uttar Pradesh & others**¹, their Lordships of the Supreme Court has examined the issue holding that the petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Section 200 or 156(3) 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 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 petitioners.

Sd/-
(Narendra Kumar Vyas)
Judge

Amita

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