

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 582 of 2021

Smt. Radha Dhruw, D/o Shri Dhanush Prasad Dhruw, Aged about 45 years, R/o Village – Arjuni, Bhatapara, District – Baloda-Bazar (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Ministry of Home Affairs, Mantralaya, Mahanadi Bhawan, Nawa Raipur, District – Raipur (C.G.)
2. Superintendent of Police, District – Baloda-Bazar, Bhatapara (C.G.)
3. Station House Officer, P.S.-City Kotwali, District – Baloda-Bazar, Bhatapara (C.G.)

---- Respondents

For Petitioner : Mr. Achyut Tiwari, Advocate.

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

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

14.09.2021

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 application filed by the petitioner for registration of FIR against the accused persons pursuant to the recommendation made by Chhattisgarh State Scheduled Tribe Commission, Raipur.
2. The brief facts as projected by the petitioner are that the petitioner belongs to Scheduled Tribe Community and one Maheshwar Sori is pretended to marry with the petitioner but actually they did not get marry. Maheshwar Sori & his entire family started harassment & cruelty to the petitioner in connection with demand of dowry and after giving them money &

other things, they again started harassing the petitioner. It is alleged that when the petitioner was pregnant, her so-called husband – Maheshwar Sori intentionally kicked her womb & also attacked the petitioner, as a result thereof, petitioner's fetus died in womb. The petitioner approached before C.G. State Scheduled Tribe Commission, Raipur by filing an application for redressal of her grievances. Upon which, Commission, after hearing the parties came to the conclusion that Maheshwar Sori is not the husband of petitioner, therefore, he is liable to be punished under Section 376 IPC. The said Commission made a recommendation on 4.3.2021 that an FIR must be registered against Maheshwar Sori & other concerned persons. Pursuant to which, the petitioner has made an application before City Kotwali, District Baloda Bazar – Bhatapara on 13.03.2021 and also preferred the same before S.P., District Baloda Bazar, Bhatapara on 15.03.2021 for registration of FIR, but till date FIR has not been registered against the accused persons.

3. On above factual matrix the petitioner has prayed for following reliefs :-

“10.1. That, this Hon'ble Court may kindly be pleased to requisite the records of the court below in respect of this petition.

10.2 That, this Hon'ble Court may kindly be pleased to issue the writ of MANDAMUS or any other appropriate writ/writs, order/orders of direction/directions, & kindly direct respondent State to take action against concerned police personals who neglected to register FIR in compliant of petitioner.

10.3 That, this Hon'ble Court may kindly be pleased to issue the writ of MANDAMUS or any other appropriate writ/writs, order/orders or direction/directions, & kindly direct respondent State to register FIR immediately as per the contents of complaint & recommendation, and to conduct investigation within any stipulated time.

10.4 That, this Hon'ble Court may kindly be pleased to grant any other relief, as it deems fit an appropriate.

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 accused 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 petitioner 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

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