

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No. 597 of 2021

- Ashish Chaware, S/o:- Bansilal Chaware, aged about 36 years, R/o:- 37/645, Ramdas Nagar, Behind Maharastra Mandal, Tikrapara, Bilaspur, District- Bilaspur, C.G.

---- Petitioner

Versus

1. State of Chhattisgarh, Through:- Department of Home(Police), Mantralaya,- Naya Raipur, District- Raipur, C.G.
2. State of Chhattisgarh, Through:-Inspector General of Police, Rang-Bilaspur, District- Bilaspur, C.G.
3. State of Chhattisgarh, Through:- Superintendent of Police, District-Bilaspur, C.G.
4. State of Chhattisgarh, Through:-S.H.O.:- City Kotwali, Distt:-Bilaspur, C.G.
5. Rukhsar Ali, D/o:- Shabir Ali, R/o:- Din-Dayal Colony, Near Abhishek Vihar, Bilaspur, C.G.

---- Respondents

For Petitioner : Mr. Neeraj Choubey, Advocate

For State/Respondents Nos. 1 to 4 : Mr. Sudeep Verma, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

15.09.2021

(1) By way of this instant writ petition under Article 226 of the Constitution of India, the petitioner is seeking direction to respondent Authorities for registering the FIR against the respondent No. 5 on the basis of the complaint made by the petitioner.

(3) On above factual matrix the petitioner has prayed for following relief:

“(i) This Hon'ble Court may kindly be pleased to issue order/orders, writ/writs & direction/directions that the F.I. R. would be registered against the respondent No. 5 as per the written complaint of the petitioner.

(ii) This Hon'ble Court may kindly be direct the Resp. No. 2 & authorities to provide police protection to the petitioner.

(iii) Any other relief/reliefs, which this Hon'ble Court may think fit and proper in the facts and circumstances of the case, with cost of the petition, may also please be granted to the petitioner."

(4) From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint made by him, FIR should be registered against respondents No. 5.

(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 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