

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 460 of 2018

1. Chhedilal Agrawal, S/o Late Ramgopal Agrawal, Aged About 68 Years, R/o 410 Guptagali, Main Road, Korba, Tahsil & District- Korba (C.G.)
2. Ishwar Singh Rajput, S/o Late Pancham Singh Rajput, Aged About 48 Years, R/o Bajrang Gali, Agrasen Chowk, Korba, Tahsil & District- Korba (C.G.)

---- Petitioners

Versus

1. The State of Chhattisgarh, through: the Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District- Raipur (C.G.)
2. The Director General of Police, Chhattisgarh.
3. The District Magistrate/Collector, Korba, District- Korba (C.G.)
4. The Inspector General of Police, Bilaspur Range, Bilaspur (C.G.)
5. The Superintendent of Police, Korba, District- Korba (C.G.)
6. The Station House Officer, Police Station, Anusuchit Jati Kalyan, Korba, District- Korba (C.G.)
7. Tularam Bhardwaj, S/o Terasram Bhardwaj, Presently posted and working as Tahsildar, Korba, District- Korba (C.G.)

---- Respondents

For Petitioners	:	Mr. Rajat Agrawal, Advocate.
For State	:	Mr. Devendra Pratap Singh, Dy. A.G.
For respondent No. 7	:	Mr. Sanjay Patel, Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

02.09.2021

1. The petitioners have filed this writ petition under Article 226 of the Constitution of India for following relief:-
 - 10.1 That, this Hon'ble Court may be kind enough in issuing a writ in the nature of mandamus, certiorari or likewise any other appropriate writ, commanding and directing the respondents to produce all the records related with the case of the petitioner for just and proper decision of this case.
 - 10.2 That, this Hon'ble Court may be kind enough in issuing a writ in the nature of mandamus, certiorari or likewise any other appropriate writ, commanding and directing any highly empowered investigating agency to lodge FIR on the complaint of the petitioner and submit a preliminary enquiry report before this Hon'ble Court for just, proper and appropriate decision.

- 10.3 That, this Hon'ble Court may be kind enough in issuing a writ in the nature of mandamus, certiorari or likewise any other appropriate highly equipped investigating agency, to enquire and investigate Annexure P/3 lodged by the present petitioner.
 - 10.4 That, this Hon'ble Court may be kind enough in issuing a writ in the nature of mandamus, certiorari or likewise any other appropriate writ, commanding and directing to direct any independent agency to investigate each and every offences, loss damage and expenditure incurred by the petitioner in all these litigations, which can be suitably awarded from the personal pocket of the respondent No. 7.
 - 10.5 That, this Hon'ble Court may be kind enough in issuing a writ in the nature of mandamus, certiorari or likewise any other appropriate writ, commanding and directing to direct the respondent-State to make a complete and full proved formula and proceedings before the respondent No. 7 like officers, so that they may not harass any person and any common citizen shall not be abused by the power and position of any officer.
 - 10.6 That, this Hon'ble Court may be kind enough in issuing a writ in the nature of mandamus, certiorari or likewise any other appropriate writ, commanding and directing the appropriate agency, to look into the fairness and correctness of the FIR Annexure P/1 and the same report may kindly be enquired before this Hon'ble Court for just and proper decision.
 - 10.7 That, this Hon'ble Court may be kind enough in issuing a writ in the nature of mandamus, certiorari or likewise any other appropriate writ, commanding and directing the appropriate investigating agency to investigate the conversation recorded by the petitioner, to reveal the truthfulness of the allegations of the petitioner.
 - 10.8 Any other relief, which the Hon'ble Court deems fit and proper looking to the facts and circumstances of the case, may also be granted.
2. From perusal of reliefs sought, it is quite clear that the petitioners want that on the basis of complaint, FIR should be registered against respondent No. 7 – Tularam Bhardwaj.
 3. 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

¹ (2008) 2 SCC 409

***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage*² and M. Subramaniam & another Vs. S. Janaki & another**³.

4. 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.
5. 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.
6. 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**

Arun

² (2016) 6 SCC 277

³ (2020) 16 SCC 728