

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 617 of 2021

1. Harish Kumar Patre S/o Shri Budharu Patre Aged About 45 Years R/o Village Kukradih, P.S. Tumgaon, Tahsil And District Mahasamund Chhattisgarh.
2. Smt. Bhagwati Patre W/o Shri Harish Kumar Patre Aged About 42 Years R/o Village Kukradih, P.S. Tumgaon, Tahsil And District Mahasamund Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. The Director General Of Police Office Of The Director General Of Police, Naya Raipur, District Raipur Chhattisgarh.
3. The Superintendent Of Police Mahasamund District Mahasamund Chhattisgarh.
4. Station House Officer Tumgaon, District Mahasamund Chhattisgarh.
5. Sunil Chelak S/o Shri Pusau Chelak Aged About 22 Years R/o Kukradih, P.S. Tumgaon, District Mahasamund Chhattisgarh.

---- Respondents

For Petitioners : Mr. A.S. Rajput, Advocate.

For State : Mr. S. Verma, Dy. Government Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

23.09.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India seeking direction to register FIR against respondent No. 5.
2. The brief facts projected by the petitioners are that the petitioners have made complaint before the police, P.S. Tumgaon alleging that respondent No. 5 entered their house and tried to outrage modesty of their 15 year old daughter.

3. From the above factual matrix, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against respondent No. 5- Sunil Chelak.
4. 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.
5. 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 of the Cr.P.C. or Section 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.
6. 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.
7. 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

Deshmukh

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