

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 639 of 2021

- Malik Ram S/o Budharu Satnami Aged About 40 Years R/o Udan, Police Station Palari, Tahsil Palari, District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Affairs, Department, Mantralaya, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh.
2. The Superintendent Of Police Baloda Bazar, District Baloda Bazar-Bhatapara, Chhattisgarh.
3. Incharge Of Police Station, Gidhpuri Gidhpuri, District Baloda Bazar-Bhatapara, Chhattisgarh.
4. Incharge Of Police Station, Palari District Baloda Bazar-Bhatapara, Chhattisgarh.
5. Daulal S/o Sumran Satnami Aged About 72 Years R/o Village Harinbhatta, Police Station Gidhpuri, Tahsil Palari, District Baloda Bazar-Bhatapara, Chhattisgarh.
6. S. P. Sahu Notary And Advocate, Civil Court, Kasdol, District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Respondents

For Petitioner : Mr. Pushpendra Kumar Patel, Adv.

For State : Mr. Uddhav Sharma, G.A.

Hon'ble Shri Justice Narendra Kumar Vyas
Order On Board

04.10.2021

1. The petitioner has filed this writ petition and prays for following relief(s):-
 - 10.1 That, this Hon'ble Court, may kindly call for the entire record in relates to the case of the petitioner.
 - 10.2 That, this Hon'ble Court, may kindly be pleased to issue a writ/ or writs/ order/ or order/ to direct the respondent's authorities, to proper investigate the matter, as complaint made by the petitioner and lodged the First Information Report, against the responsible person under the relevant section of Indian Penal Code, in the ends of justice.
 - 10.3 That, any other relief, this Hon'ble Court, deem fit and proper may also kindly be granted to the petitioner, in the interest of justice.

2. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against accused.
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 ***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 156(3) or 200 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 petitioner.

Sd/-

(Narendra Kumar Vyas)
Judge

parul

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728