

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 646 of 2021

- Shivkumar Yadav S/o Aniruddh Ram Aged About 40 Years R/o Village Shritoli, Police Station Duldula, District Jashpur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Duldula, District Jashpur Chhattisgarh
2. The Superintendent Of Police Jashpur District Jashpur Chhattisgarh
3. Purno Yadav S/o Prabhakar Yadav Aged About 58 Years R/o Village Shritoli, Police Station Duldula, District Jashpur Chhattisgarh
4. Devendra Yadav S/o Purno Yadav Aged About 34 Years R/o Village Shritoli, Police Station Duldula, District Jashpur Chhattisgarh

---- Respondents

For Petitioner : Mr. Jitendra Kumar Saxena, Adv.

For State : Mr. Gurudev I. Sharan, G.A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

04.10.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India for registration of FIR against respondents No.3 and 4 for committing offence under Sections 307, 323, 294, 506-B/34 of IPC.
2. The brief facts as projected by the petitioner are that on 02.07.2021 in between 8:00 to 9:00 am the petitioner was sitting near his field and brushing his teeth, at that time respondents No.3 & 4 came there in tractor, started abusing him and assaulted him with the help of hand & fist, also pressed his neck with intention to kill him and due to assault, the petitioner has received grievous multiple injuries. Therefore, on 02.07.2021 the petitioner has made written complaint before Station House Officer, Police Station Duldula but no action has been taken by respondent No.1. Thereafter, the petitioner has also made an application before the Superintendent of Police, Jashpur for

registration of offence under Sections 307, 323, 294, 506-B/34 of IPC against respondents No.3 & 4, but till date no offence has been registered against them.

3. On above factual matrix the petitioner prays for following relief(s):-

“10.1 That this Hon'ble Court may kindly be pleased to direct respondent police authorities to ensure compliance of directions issued by this Hon'ble Court in Paragraph No.18 & 19 in the matter of “Bhushan Singh Rathiya Vs. State of Chhattisgarh & others” bearing W.P.(Cr.) No.9 of 2016 and may kindly be pleased to direct the respondent No.1 to register the FIR against the accused/culprit/respondents No.3 & 4, on the basis of complaint submitted by the petitioner which prima facie disclosed the commission of a cognizable offence.

10.2 That any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the cost of the petition may be given.”

4. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against respondents No.3 & 4.
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

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ (2020) 16 SCC 728

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.

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

parul