

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 653 of 2021

Smt. Narmada Sarvan, W/o Late Pitambar Prasad, Aged About 70 Years,
R/o Ward No. 22 Sainik Vihar Janjgir, District - Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary Department of Home, Mantralaya Mahanadi Bhawan, New Raipur, District- Raipur (C.G.)
2. Superintendent of Police Janjgir-Champa, District- Janjgir-Champa (C.G.)
3. Station House Officer, P.S. Janjgir, District- Janjgir-Champa (C.G.)
4. Smt. Nimmi Alias Ninni Lather, W/o Kailash Kumar Lather, Aged About 50 Years, R/o Kharpadipara, Civil Line Ward No. 21 Janjgir, District- Janjgir-Champa (C.G.)

---- Respondents

For Petitioner : Mr. F.S. Khare, Advocate.

For State/res. No. 1 to 3 : Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

06.10.2021

1. The brief facts, as projected by the petitioner, are that there is land dispute of the petitioner with respondent No. 4 which is pending before Civil Court. On 20.08.2021, respondent No. 4 came with another person in a motorcycle and in front of gate, abused filthy languages to the petitioner and threatened that if the petitioner will come out from the house, then respondent No. 4 will commit 'marpeet' and she will also kill the petitioner. On 20.08.2021, petitioner made written complaint before respondent No. 3 for registration of FIR against respondent No. 4, but no action has been taken against respondent No. 4 on the complaint made by the petitioner.
2. On the above factual matrix, the petitioner has filed this writ petition under Article 226 of the Constitution of India for following relief:-

“This Hon'ble Court may kindly be pleased to direct the respondent police authorities to register a criminal case against the respondent No. 4 for committing the offence.”

3. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against respondent No. 4- Smt. Nimmi alias Ninni Lather.
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 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.
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. Learned trial Court is directed to expedite the proceeding and dispose of the case as early as possible.

Sd/-
(Narendra Kumar Vyas)
Judge

Arun

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