

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 761 of 2021**

- Dr. Surendra Shukla S/o Shri Tej Ram Shukla, Aged About 58 Years Presently Residing At Sarva Trauma Hospital, Tatyapara, Raipur, District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Director General Of Police, Police Head Quarter, Raipur (Chhattisgarh).
2. Superintendent of Police, Janjgir Champa, District Janjgir Champa Chhattisgarh.
3. Station House Officer, Sheorinarayan, District Janjgir Champa Chhattisgarh.
4. Prashant Thakur, Presently Posted As Superintendent of Police, District Janjgir Champa Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Ajay Kumar Chandra with Ms. Poorva Tiwari, Adv.
For State	:	Mr. Wasim Miyan, PL

Hon'ble Smt Justice Rajani Dubey**Order on Board****25.11.2021**

1. Heard.
2. The present petition has been filed by the petitioner being aggrieved by the inaction of the police authorities whereby despite complaint made by the petitioner against one Santosh Gupta, the police authorities have not registered FIR against him.
3. The petitioner is a medical practitioner who had given Rs. 3,00,000/- to one Santosh Gupta for his daughter's marriage. Santosh Gupta had promised the petitioner to return the

same within a period of six months and if not done so, he would pay simple interest @ 10%. Since then, nine years have passed but he has not returned the said amount. The petitioner, through this petition has sought a direction to the police authorities to register an FIR and conduct a proper investigation.

4. Learned State counsel opposed the prayer made through this petition.
5. The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of Uttar Pradesh & Others** reported in **(2008) 2 SCC 409**, has examined the issue in paragraphs 27 and 28 and held as under:-

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Section 36 and 154 (3) before the concerned police officers, and if that is of no avail, under Section 156 (3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section Cr.P.C.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”

6. Considering the facts and materials available on record and in

view of law laid down by Hon'ble Apex Court, this court is of the view that this petition is not maintainable, however it is open to the petitioner to approach the Court of Judicial Magistrate First Class having territorial jurisdiction over the place of offence if it deemed appropriate and necessary for filing of complaint under Section 156 (3) of CrPC or Section 200 of CrPC and in-turn Magistrate will follow the procedure prescribed under the provisions of the Cr.P.C. It is made clear that this Court has not expressed any opinion on merits of the case whether the averments made in the petition discloses any criminal offence or not, it is for the concerning Magistrate to decide the case on merits of the case without being influenced by any of the observations made by this Court.

7. With the aforesaid observations, this petition is finally disposed of with the aforesaid liberty in favour of the petitioner.

Sd/-
(Rajani Dubey)
Judge

v/-