

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1262 of 2021**

- Jubeen Dubey, S/o Pradeep Kumar Dubey, Aged About 26 Years, R/o Ward No. 27, Behind Bus Stand, Kawardha, District-Kabirdham Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through: The Secretary, Home Department, Mahanadi Bhawan, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh.
2. Inspector General of Police Durg Range, District Durg Chhattisgarh.
3. Superintendent of Police Kawardha, District Kabirdham Chhattisgarh.
4. Station House Officer, Police Station Kotwali, Kawardha, District Kabirdham Chhattisgarh.

---- Respondents

For Petitioner : Shri Pramod Ramteke, Advocate

For State/respondents : Shri Sunil Otwani, Additional
Advocate General

Hon'ble Smt. Justice Rajani Dubey

Order on Board**25.11.2021**

1. The petitioner has filed this petition alleging that he is a professional hacker and he has some news about communal riots between the Hindu and Muslim community on 02.10.2021.

Therefore, he filed the present petition to direct the police authorities to make appropriate investigation of the said riots at Kawardha in the interest of justice.

2. Learned State counsel opposes the prayer of petitioner and submits that the petitioner has no *locus standi* to file this petition.
3. Heard counsel for both the parties and perused the material available on record.
4. Petitioner has objected the FIR No. 0501/2021 registered under Sections 294, 323, 506(8), 295, 147 and 146 of IPC at Police Station- Kabirdham and made a request to allow this petition and also prays for direction for appropriate investigation in this FIR.
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. The Hon'ble Supreme Court in case of **M. Subramaniam & Another Vs. S. Janaki & Another** reported in **(2020) 16 SCC 728** has examined the issue in paragraph 13 and held as under:-

“13. The same view was taken by this Court in **Dilawar Singh V. State (NCT of Delhi)** reported in **(2007) 12 SCC 641 : (2008) 3 SCC (Cri) 330**, SCC para 18. We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) CrPC, and if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order(s) as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) CrPC.”

7. 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 the present 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 the Magistrate will follow the procedure prescribed under the provisions of the Cr.P.C.

8. 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.
9. With the aforesaid observations, the petition is disposed of with the aforesaid liberty in favour of the petitioner.

**Sd/-
(Rajani Dubey)
Judge**

R/-