

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 810 of 2021**

- Uday Kumar Sharma S/o Rampravesh Sharma Aged About 34 Years R/o Village Parsagudi, Tehsil And P. S. Rajpur, District Balrampur Ramanujganj Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary Home Department, Mantralaya Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh.
2. Inspector General Of Police Surguja Range Ambikapur, District Surguja Chhattisgarh.
3. Superintendent Of Police Balrampur Ramanujganj Chhattisgarh.
4. Station House Officer Police Station Ramanujganj, District Balrampur Ramanujganj Chhattisgarh.
5. Vinod Paswan Chowki Incharge, Police Chowki Vijaynagar, Police Station Ramanujganj, District Balrampur Ramanujganj Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Shakti Raj Sinha, Adv.
For State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Smt Justice Rajani Dubey**Order on Board****08.12.2021**

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 respondent No. 5, the police authorities have not registered FIR against him.
3. In this case respondent No. 5 is posted as Chowki Incharge, Police Chowki Vijaynagar P.S. Ramanujganj District Balrampur.

The petitioner who is having business of storage and transportation of sand made a complaint against the respondent No. 5 of harassment and extortion but the police authorities have not taken any action against him. 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/-