IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.1664 of 2026
CNR No. ODHC01075998026

Sk. Khwaja Hussain .... ***Petitioner(s)***

Mr. Bishwaranjan Sahu, Advocate

-versus-

State of Odisha and others .... ***Opposite Party (s)***

Mr. R.B. Dash, ASC

CORAM:
THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER

Order No. **30.10.2026**

01. **1.** The petitioner is aggrieved by non-registration of the F.I.R. based on the complaint lodged by him on 21.08.2026. Subsequently, she has also made a complaint to the Superintendent of Police, Khurda on 03.09.2026. The allegation made in the complaint is as under:-

> *"The case of the complainant, in brief, is that Opposite Party No. 4 owns land situated at Mouza Pana Baraja. It is alleged that Opposite Party No. 4 approached the complainant and requested him to purchase the said land. Initially, the complainant expressed his inability to purchase the same.*

However, subsequently, it was agreed between them that the complainant would pay the consideration amount in instalments and, upon receipt of the entire consideration amount, Opposite Party No. 4 would execute and register a sale deed in respect of 8 gunths of land in favour of the complainant.

It is further alleged that during the period from 01.10.2019 to 04.04.2023, the complainant paid a total sum of Rs.17,90,000/- (Rupees seventeen lakh ninety thousand only) through his SBI Account No. 31460202763 to the bank account of Opposite Party No. 4 bearing Account No. 20172449675. After receiving the entire consideration amount, Opposite Party No. 4 neither executed the sale deed nor took any steps for registration of the land in favour of the complainant. Despite repeated approaches and requests made by the complainant, Opposite Party No. 4 did not respond to his requests. On 12.08.2026, when the complainant approached Opposite Party No. 4 and requested him to execute and register the sale deed in respect of the said land, Opposite Party No. 4 abused him in filthy language and threatened to kill him."

2. The petitioner has paid Rs.17,90,000/- to the accused persons by banking transaction and its alleged that the private opposite party is refusing to pay back

the amount. It prima facie appears to be a case essentially of civil nature of recovery.

3. The Hon'ble Supreme Court in ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage***, reported in **(2016) 6 SCC 277**, has held that where the police fail to register an F.I.R. or do not conduct a proper investigation, the aggrieved person should ordinarily resort to the statutory remedies under Sections 156(3) and 200 of the Cr.P.C., instead of directly invoking the extraordinary jurisdiction of the High Court. It was held thus:-

> *"3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation."*

4. Since an efficacious alternative remedy by way of filing a complaint under Section 200 of the Cr.P.C. (corresponding to Section 223 of the B.N.S.S.) or seeking an appropriate remedy under Section 156(3) of

the Cr.P.C. (corresponding to Section 175(3) of the B.N.S.S.) is available to the petitioner, he is at liberty to avail himself of the remedies under the law.

5. However, it is open for the Superintendent of Police, Khurda to conduct a preliminary enquiry into the matter and take necessary action in accordance with law, if it's so desirable.

6. With this observation, the CRLMP is disposed of.

(S.S. Mishra)
Judge

Subhasis/Rati

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