IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.1708 of 2026
CNR No. ODHC010785532026

Santosh Kumar Jena .... ***Petitioner(s)***

Mr. Byomakesh Tripathy, Advocate
appearing on behalf of
Mr. Achyutananda Pattanaik, Advocate

-versus-

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

Mr. Udit Ranjan Jena, AGA

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

ORDER

Order No. **05.11.2026**

01. **1.** The petitioner is aggrieved by non-registration of the F.I.R. based on the complaint lodged by him on 22.09.2026. Subsequently, he has also made a complaint to the Superintendent of Police, Rural, Cuttack on 26.09.2026.

The allegation is made in the complaint is that on 22.09.2026 at about 3.00 P.M., the accused, namely, Prakash Sahoo, a neighbour of the petitioner, unlawfully entered his dwelling house and assaulted him by means of fist and kick blows and a pointed iron object (Luha

Kanta), causing bleeding injuries to his shoulder. It was further alleged that the petitioner was pushed to the ground and that the accused also pressed his neck with a pillow with the apparent intention of causing his death. The petitioner was thereafter constrained to undergo medical treatment at Banki Sub-Divisional Hospital. The petitioner further alleged that the occurrence stemmed from the accused's objectionable relationship with his wife, to which he had objected, resulting in hostility and threats to his life from the accused. The complaint also referred to the accused's frequent telephonic communications with his wife as part of the background to the incident.

2. 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."

3. 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.

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

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

(S.S. Mishra)
Judge

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