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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 7639 of 2007

PETITIONER : Ramkumar @ Loliya Son of Late Mandhari, aged about 26 years, Caste Kenwat, Occupation Wagery, Resident of Korla Colliery Oriya Mandir, Dafai, Tahsil Baikunthpur, District Koriya (C.G.)

VERSUS

RESPONDENTS : 1. Pradyuman Tiwari, Assistant Sub Inspector, Police Chowki Koriya, Police Station Chirmiri, District Koriya (C.G.)
2. The Superintendent of Police, Koriya, District Koriya (C.G.)
3. The Inspector General of Police, State of Chhattisgarh, Police Head Quarter, Raipur (C.G.)
4. The Director General of Police, Police Headquarter, Raipur (C.G.)
5. State of Chhattisgarh, Through: The Secretary, Department of Home, D.K.S. Bhawan, Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

SB: Hon'ble Shri Satish K. Agnihotri, J.

Present: Shri Ashok Kumar Shukla, Advocate for the petitioner.
Shri Sumesh Bajaj, Government Advocate for the State/
respondent No. 2 to 5.

ORAL ORDER

(Passed on 20th day of December, 2007)

1. Learned counsel appearing for the petitioner submits that the petitioner has been picked up by the respondent No. 1. The petitioner has apprehension to his life. The petitioner has already made an application to the Sessions Judge, Baikunthpur to the same effect on 27.10.2007 (Annexure P/4). The Sessions Judge, Baikunthpur has immediately referred the matter to the Judicial Magistrate First Class, Baikunthpur, on 27.10.2007 for taking action immediately. The Magistrate has already taken cognizance of the matter. Notices have been issued. Witnesses are being examined.



2. Learned counsel further submits that after fixing the date, the Magistrate is doing nothing. Once the matter is pending consideration before the Magistrate, wherein the Magistrate has taken cognizance of the matter for the same relief, a petition under Article 226 of the Constitution of India is not maintainable. The Magistrate is competent to consider and pass appropriate order in respect of the grievances raised by the petitioner in this petition.
3. In view of the foregoing, the petition is dismissed as not maintainable. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge