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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Writ Petition (Cr) No.1362/2010**

**PETITIONER**

Satish Goyal, Aged about 56 years, son of Late Murarilal Goyal, Chairman-Cum-Managing Director of IND Synergy Limited, Post Box No.32, Village Kotmar, Mohapalli Distt. Raigarh (CG) Through – Mr. Pravesh Biswas, Deputy Manager (Legal), aged about 29 years, son of Shri Protik Biswas, IND Synergy Limited, R/o.169 Shivaji Nagar, Nagpur (MS) 441110

***Versus***

**RESPONDENTS**

1. State of Chhattisgarh, through the Secretary, Department of Home Affairs, Dau Kalyan Singh Bhawan, Raipur (CG)
2. Shakrajeet Nayak, aged about 62 years, son of Shri Lalman Nayak, House No.4, Gajanan Puram, Kotra Road, Raigarh, Tah. and District Raigarh (CG)
3. The Superintendent of Police, District Raigarh (CG)
4. The Station House Officer, Police Station – Chakradharnagar, Distt. Raigarh (CG)
5. The Collector, Distt. Raigarh (CG)

**WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA**

**Appearance :**

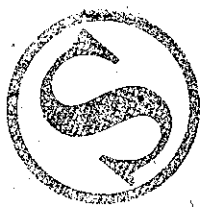
Mr. Prashant Jaiswal, Senior Advocate with Mr. R.R. Sinha, Counsel for the petitioner.

Mr. Arun Sao, Government Advocate for the State/respondents 1, 3, 4 & 5 on advance copy.

**ORAL ORDER**  
**(31.03.2010)**

**SUNIL KUMAR SINHA, J.**

Heard.

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(36)

Petitioner – Satish Goyal has filed this petition for the following reliefs :

- "10.1 The Hon'ble Court be pleased to issue a writ of mandamus or appropriate direction to the Respondents No.1, 3, 4 & 5 for investigation and arrest of Respondent No.2 in the crime No.439/2009 registered at PS Chakradhar Nagar for offence U/s 506 R/w Sec. 171F of IPC.
- 10.2 Any other relief, whatsoever this Hon'ble Court may deem fit and proper may also be granted to the petitioner."

The petitioner, thus, in substance is praying for a direction to the respondent authorities for investigation and arrest of respondent No.2 in Crime No.439/2009.

Mr. Prashant Jaiswal, learned Senior Advocate appearing on behalf of the petitioner submits that even after registration of the First Information Report vide Crime No.439/2009 under Sections 506 and 171F IPC, the Officer in charge of the concerned Police Station is not making any further investigation, therefore, the petitioner had to file this writ petition for the instant reliefs.

A copy of the First Information Report has been filed as Annexure P/4.

As per contents of the First Information Report, Crime No.439/2009 has been registered under Sections 506 and 171F of IPC. The offences punishable under Sections 506 and 171 F of IPC are the non-cognizable offences.

Section 155 of the Code of Criminal Procedure deals with regard to non-cognizable cases and investigation of such cases. Sub-section (1) of Section 155 provides that when information is given to an officer in charge of a police station of the commission, within the limits of such station, of a non-

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cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate. Sub-section (2) provides that no police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial. Sub-section (3) further provides that any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case. Further, sub-section (4) provides that where a case relates to 2 or more offences of which atleast one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

Admittedly, in the present case, both the offences are non-cognizable offences. Therefore, in view of the provisions contained in sub-section (2) of Section 155 of the Code of Criminal Procedure, unless there is an order of the Magistrate, the investigation can not be conducted.

For the forgoing reasons, I do not find any substance in the petition, therefore, the petition is liable to be dismissed and is hereby dismissed summarily.

However, the petitioner would be at liberty to avail appropriate provisions available to him in accordance with law.

Sd/-  
SUNIL KUMAR SINHA  
Judge