

Naresh Singh Gurjar vs The State Of Madhya Pradesh on 17 February, 2025

Author: Milind Ramesh Phadke

Bench: Milind Ramesh Phadke

NEUTRAL CITATION NO. 2025:MPHC-GWL:3457

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IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE
ON THE 17th OF FEBRUARY, 2025
WRIT PETITION No. 4856 of 2025
NARESH SINGH GURJAR AND OTHERS
Versus
THE STATE OF MADHYA PRADESH AND OTHERS
Appearance:
Shri Pratip Visoriya - Advocate for the petitioner.
Shri Deepak Khot - Government Advocate for the respondent.

ORDER

The present petition under Article 226 of the Constitution of India has been preferred by the petitioner seeking following reliefs:-

"1. That, the respondent may kindly be directed to conduct the fair and impartial investigation of the incident within 3 months.

2. That, any other relief which the Hon'ble High Court may deem fit, with the cost of the petition."

2. Learned counsel for the petitioners submits that on 07.11.2024 at about 12:30 am, the son-in-law of petitioner No.2 was murdered by gunshot.

At the time of incident, nobody informed his family members. Prior to the incident, one Golu S/o Bhure Singh Gurjar took away his son-in-law along with him. Petitioner no.2 raised suspicion about the complicity of complainant Bhupendra Singh in the incident as he had to pay Rs. 2 lacs and give about 86 gm. gold to the deceased which was given by the deceased to complainant Bhupendra Singh. Thus, petitioner No.2 has filed a NEUTRAL CITATION NO. 2025:MPHC-GWL:3457 2

WP-4856-2025 representation before the Superintendent of Police, District Datia for fair and impartial inquiry of the incident. Hence, prayer is made to issue direction to Superintendent of Police, District Datia for conducting fair and impartial inquiry into the incident.

3 . Per contra, learned Government Advocate submits that the present petition is mis-conceived as the remedy to the petitioners lay before the concerned Magistrate under Section 156(3) of the Code of Criminal Procedure. He placed reliance in the matter of Sakiri Vasu Vs. State of U.P. (2008) 2 SCC 409 and submitted that the Hon'ble Supreme Court has laid the guidelines that in such cases the remedy to a person is available before the concerned magistrate and no writ can be issued in this regard.

4. Heard the counsel for the parties and perused the record.

5. Admittedly, the petitioners by way of the present petition seek direction to the respondent authorities to conduct a fair and impartial investigation on the complaints made by petitioner No.2. This Court is in agreement with the arguments advanced by the learned Government Advocate that remedy in such types of matter would lay before the concerned magistrate under Section 200 of Cr.P.C./Section 223 of Bhartiya Nagarik Suraksha Sanhita, 2023 along with an application under Section 156(3) of Cr.P.C./ Section 175 of Bhartiya Nagarik Suraksha Sanhita, 2023. Thus, there is no scope of interference in the matter. The petitioners are advised to approach the concerned Magistrate under Section 200 of Cr.P.C./Section 223 of Bhartiya Nagarik Suraksha Sanhita, 2023 along with an application under Section 156(3) of Cr.P.C./ Section 175 of Bhartiya NEUTRAL CITATION NO. 2025:MPHC-GWL:3457 3 WP-4856-2025 Nagarik Suraksha Sanhita, 2023 for redressal of their grievances.

6. With aforesaid liberty, petition is dismissed as not maintainable. However, looking to the nature of offence, it is made clear that in case if the petitioner approaches the concerned Magistrate, then he shall decide the application strictly in accordance with law without getting influenced or prejudiced by dismissal of this petition within a period of fifteen days of filing of the same and pass necessary order.

E-copy/Certified copy as per rules/directions.

(MILIND RAMESH PHADKE) JUDGE ojha