

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **Writ Petition (Criminal) No.508/2006**

Judgment reserved on : 23.04.2008

Date of decision : 28.04.2008

GIR PRASAD PETITIONER

! Through : Ms. Chitrlekha Sen Advocate

Versus

\$ STATE & ORS.
.....RESPONDENTS

^ Through : Ms. Mukta Gupta, Standing
Counsel for the State along
with IO ASI Rajender Singh.

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CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

J U D G M E N T

ARUNA SURESH, J.

1. Present writ petition has been filed by the Petitioner Gir Prasad seeking mandamus against the

respondent Nos. 1 to 8 to register an FIR on the complaint of the Petitioner filed before the police on 1.02.2006 as police failed to investigate the cause of death of his daughter Kamlesh who died under suspicious circumstances. Even after filing of the complaint, the police remained inactive hence directions have been sought by way of this petition to be issued to the respondent Nos. 1 to 8 for registration of an offence under Section 302/498-A/406/120-B/34 IPC against respondent Nos. 9 to 17 and conduct the investigation accordingly.

2. The maintainability of this writ petition has been challenged by the State in view of “**Aleque Padamsee and Ors. vs. Union of India & Ors’, 2007 (9) SCALE 275**”.

3. In the said case the writ petition was filed for directing the police officers to register an FIR on the complaint filed by the Petitioner in the said case and for conducting investigation in accordance with Section 154 and 156 Cr.P.C.. While disposing of the writ petition following directions were issued by the Apex Court:-

- “(1) If any person is aggrieved by the inaction of the police officials in registering the FIR, the modalities contained in Section 190 read with Section 200 of the Code are to be adopted and observed.
- (2) It is open to any person aggrieved by the inaction of the police officials to adopt the remedy in terms of the aforesaid provisions.
- (3)
- (4)”

4. Therefore, in view of this judgment, the present writ petition is not maintainable. However, during the course of arguments it was brought to the notice of this court that the present Petitioner has already filed a criminal complaint before Shri Sanjeev Jain, ACMM, Karkardooma Courts, Delhi being Criminal Complaint No.67/2007. Along with this complaint, Petitioner also filed an application under Section 156(3) Cr.P.C. for directing the police officers to register a case and to investigate the same. The case is now listed before the concerned Magistrate for 25th October, 2008. The grievance of the Petitioner is that there is no progress in the said complaint and only the complaint has been

adjourned for 25.10.2008 on which date probably the Petitioner has been asked to produce his evidence.

5. Under these circumstances when the Petitioner has already adopted and adhered to the modalities contained under Section 190 read with Section 200 Cr.P.C. by filing the said complaint before the learned ACMM, Karkadooma Courts, Delhi, the petition has become infructuous and is not maintainable which it accordingly dismissed. Learned ACMM is directed to dispose of the application of the Petitioner under Section 156(3) Cr.P.C. in accordance with law on the date already fixed and expedite and complete the criminal proceedings in the complaint filed by the petitioner within a period of six months. Petitioner is at liberty to move an application before the trial court for early hearing of his application under Section 156(3) Cr.P.C. and on receipt of such an application, the court shall proceed to decide the application expeditiously in accordance with law and procedure.

6. Writ Petition (Crl.) No.508/2006 and Crl. M.A. No.3832/2006 filed by the Petitioner stand disposed of

accordingly. Attested Copy of the order be sent to the learned trial court.

**ARUNA SURESH
(JUDGE)**

**April 28, 2008
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