

25

#

%. 22.09.2010

Present: Mr. Y.P. Narula, Sr. Adv. with Mr. Aniruddha Choudhary, Adv.
for the petitioner.
Mr. Anindya Malhotra, Adv. for the CBI.

+Crl. M.A. 15471/2010

*

Allowed, subject to all just exceptions.

Application stands disposed of.

+W.P. (Crl.) No. 1458/2010

Petitioner filed a complaint dated 12th July, 2006 with the Central Bureau of Investigation (CBI) alleging therein that Directors of M/s Data Access (India) Ltd. (for short hereinafter referred to as Company) had misappropriated funds of the Company and also committed fraud. It was alleged that the company was enjoying certain credit facilities from the consortium of petitioner and Syndicate bank. Company had hypothecated all its receivable book debts with the consortium banks. With the consent of petitioner, the company opened a current account with ABN Amro Bank with a view to collect about ₹ 75 crores from the certain investors in India. However, Directors of the company in connivance with the Manager of the ABN Amro Bank, deposited huge amount in the said account, which was received from the company's foreign subsidiary M/s Data

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

Access America, that were in fact, book debts hypothecated with the bank and were to be deposited with the petitioner bank. Later, amount so realized was transferred to other companies owned and managed by the Directors. It was, thus, requested that a case be registered by the CBI and investigation be made.

It appears that respondent did not register a case pursuant to the aforesaid complaint. Instead, vide letter dated 19th March, 2007 petitioner was informed that the complaint had been closed and no FIR was registered. Petitioner kept on making representation. It also asked the reason for not registering the case. Vide letter dated 23rd February, 2010 respondent again informed that complaint had been closed on 4th July, 2007 as per the orders of Director of CBI.

That is how petitioner has approached this court seeking direction against the CBI to register an FIR and investigate the matter.

In Sakiri Vasu vs. State of U.P. & Ors. AIR 2008 SC 907 Supreme Court has held as under:-

"If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154 (3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156 (3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal

3

complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?"

In view of the law laid down in Sakiri Vasu (supra), I am not inclined to entertain this writ petition and the same is dismissed.



A.K. PATHAK, J.

September 22, 2010

ga