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S2. Item Nos. 1 & 2

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

CRIL.PETN. No. 40 of 2023

With
MC(Cril.Petn.) No. 13 of 2023

Smt. Naorem Ongbi Ibemhal Devi

....Petitioner

- Versus -

DGP, Manipur & 2 ors.

...Respondents

**BEFORE
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

19.09.2023

[1] Heard Mr. P. Tomcha, learned counsel for the petitioner; and Mr. Y. Ashang, learned PP for respondent Nos. 1 & 2.

[2] By the present petition under Section 482 Cr.P.C., the petitioner approached this Court inter alia praying to direct respondent No. 2 to make an investigation under Section 157 of the Code of Criminal Procedure and to monitor the investigation till submission of charge sheet or the final report and with a prayer to protect from the private respondent. The petitioner approached this Court on the ground that the O.C. City Police, Imphal West, has refused to register an F.I.R. on the complaint dated 16.09.2023 for registration of FIR and investigation for the alleged offence punishable under Section 426, 431 & 34 IPC. It is stated that I.O. has directed the petitioner to approach a Court of competent Civil Jurisdiction. Being aggrieved by the same, the petitioner approached this Court for directing the respondent No. 2 for proper investigation under Section 157 Cr.P.C.

[3] Mr. Y. Ashang, learned PP, submits that this matter may be disposed of at this stage by given liberty to the petitioner to approach the Court of concerned Magistrate by way of an application under Section 156(3) Cr.P.C.

[4] It is settled law that investigation under Section 157 Cr.P.C. can be initiated only after registration of an FIR and in the present case, respondent No. 2 has refused to register an FIR of the complaint lodged by the petitioner. It may be pertinent to refer the judgment of Hon'ble Supreme Court in the case of **Priyanka Srivastava & anr. Vrs. State of Uttar Pradesh & ors.** reported as **(2015) 6 SCC 287** wherein the Hon'ble Court laid down the procedure when the complaint lodged by a person is not registered as FIR by the concerned police station. Hon'ble Court in para 30 states that first the aggrieved party should file a complaint with the Officer-in-Charge of the Station under Section 154(1) of Cr.P.C and to the SP under Section 154(4) and on failure to register the FIR, the aggrieved party can approach the Court of competent Magistrate under Section 156(3) of the Cr.P.C for directing the police to take up the investigation.

[5] In view of the settled law as referred above, the present petition is disposed of giving a liberty to the petitioner to approach the Court of competent jurisdiction in terms of Section 156(3) Cr.P.C, if so advised.

[6] Recording this, the cril. petition is disposed of with the above direction.

[7] In MC(Cril.Petn.) No. 13 of 2023, the petitioner has prayed for providing adequate police protection during the pendency of the main petition

and to prevent further commission of crime by respondent No. 3 and his men or agent.

[8] The petitioner is directed to submit a representation to the DGP in this regard and the same shall be sympathetically considered by the authority.

[9] With this observation, the cril. petition and the misc. application are disposed of.

[10] Furnish a copy of this order to the counsel appearing for the parties.

JUDGE

Indrajeet