

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

WP(C) No. 431 of 2022

Urikhimbam Nobokishore Singh
Vs.

... Petitioner/s

State of Manipur & 3 ors.

... Respondent/s

**B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

04-04-2024

Heard Mr. O. Kiranjit, learned counsel appearing for the petitioner and Mr. Niranjana Sanasam, learned GA appearing for the respondents.

[2] The main grievance raised by the petitioner in the present writ petition is that the authorities are not registering FIRs or taking up appropriate and adequate investigation in connection with the **FIR No. 133(7)2019 SJM PS, u/s 307/506/34-IPC and 25 (1-B) Arms Act** and the petitioner has made a prayer for directing the concerned authorities for proper investigation in respect of the said FIR.

[3] The petitioner also made another prayer for directing the respondents to take necessary measures for assuring the security and safety of the petitioner and his family members.

[4] At the outset, Mr. Niranjana Sanasam, learned GA appearing for the respondents submitted that the present petition is not maintainable in view of the principle of law laid down by the Hon'ble Apex Court in the following cases :-

(i) 2008(2) SCC 409 “Sakiri Vasu -Vrs.- State of U.P”

wherein it has been laid down by the Hon'ble Apex Court as under:-

“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 CrPC. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).

“26. 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) CrPC or other police officer referred to in Section 36 CrPC. 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) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 CrPC simply because a person has a grievance that his FIR has not been registered by the

police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the police officers concerned, and if that is of no avail, under Section 156(3) CrPC before the Magistrate or by filing a criminal complaint under Section 200 CrPC and not by filing a writ petition or a petition under Section 482 CrPC.

“28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”

(ii) 2016(6) SCC 277 “Sudhir Bhaskarrao Tambe -Vrs.-

Hemant Yashwant Dhage & ors.”, wherein the Hon’ble Apex

Court held as under :-

“2. This Court has held in Sakiri Vasu v. State of U.P, that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu case because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation

“3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions.

Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.

“4. In view of the settled position in Sakiri Vasu case, the impugned judgment of the High Court cannot be sustained and is hereby set aside. The Magistrate concerned is directed to ensure proper investigation into the alleged offence under Section 156(3) CrPC and if he deems it necessary, he can also recommend to the SSP/SP concerned a change of the investigating officer, so that a proper investigation is done. The Magistrate can also monitor the investigation, though he cannot himself investigate (as investigation is the job of the police). Parties may produce any material they wish before the Magistrate concerned. The learned Magistrate shall be uninfluenced by any observation in the impugned order of the High Court.”

[5] Mr. O. Kiranjit, learned counsel appearing for the petitioner submitted that in view of the above quoted Apex Court’s judgement, any appropriate order may be passed by this Court as deem fit and proper.

[6] After hearing the submission advanced by the learned counsel appearing for the parties and on perusal of the aforesaid judgments of the Hon’ble Apex Court, this Court is of the considered view that entertaining the present writ petition will be against the principle of law laid down by the Hon’ble Apex Court. Accordingly, this Court is not inclined to entertain the present writ petition.

[7] So far as the prayer made by the petitioner for issuing a direction to the respondents to take necessary measures for assuring the security and safety of the petitioner and his family members is concerned,

as the petitioner did not approach the concerned authorities with a request for providing security, this Court do not find any ground for issuing such direction as prayed for by the petitioner.

[8] In the result, the present writ petition is hereby dismissed, however, without any order as to cost.

JUDGE

Dhakshori

LAISHRAM
DHAKESH
ORI DEVI

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