

Court No. - 2

Case :- CRIMINAL MISC. WRIT PETITION No. - 5748 of 2025

Petitioner :- Mantun

Respondent :- State Of U.P. Thru. Its Prin. Secy. Deptt. Of Home And 6 Others

Counsel for Petitioner :- Shubhranshu Verma, Jitendra Kumar

Counsel for Respondent :- G.A.

Hon'ble Alok Mathur, J.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Shubhranshu Verma, learned counsel for petitioner as well as learned Additional Government Advocate for the State.

2. In light of the proposed order, notices to private respondents are dispensed with.

3. It has been submitted by learned counsel for petitioner that first information report has been lodged by the petitioner in Case Crime No. 122/2025, U/S 80, 85 of B.N.S. and Section 3 & 4 of Dowry Prohibition Act at Police station Mahmudabad, District Sitapur against the family members of the daughter of the complainant but despite lodging of the first information report the police is not taking sufficient steps for conducting a fair investigation in the matter while the accused are threatening to cause injury and harm to the petitioner and in the aforesaid circumstances, petitioner has sought a direction to the concerned police officer to conduct a fair investigation in the said matter.

4. Learned A.G.A. on the other hand has submitted that the prayer of the petitioner with regard to fair investigation can be adequately looked into by the concerned Magistrate in exercise of powers provided u/S 175 (3) of B.N.S.S.

5. He has submitted that this aspect of the matter has been considered by the Supreme Court in the case of **Sakiri Vasu v. State of U.P., (2008) 2 SCC 409** where the Supreme Court was of the view that there are various provisions existing other than seeking a direction to the Magistrate to register a F.I.R. and certainly the petitioner has a remedy of filing a complaint instead of seeking a direction to register a first information report. Relevant portion of the aforesaid judgment quoted as under:-

"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."

6. Accordingly, in such a situation the courts should restrain themselves from entertaining such writ petition. It was further discussed that it is a power to direct the police to register a F.I.R. is a discretionary remedy looking into the complaint made by the complainant and in case the trial court is of the opinion that no such directions can be issued then the applicant has remedy of filing a criminal complaint.

7. In light of the above, the petitioner is relegated to avail the statutory remedy by moving an appropriate application before the Magistrate concerned who on receipt of the said application shall pass appropriate orders in exercise of powers provided U/S 175(3) of B.N.S.S. as well as in light of the judgment of **Sakiri Vasu (Supra)**.

8. In view of the above, the writ petition, stands disposed of.

(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)
Order Date :- 27.6.2025/Ravi/