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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 843/2016

RAJNISH SRIVASTAVA Petitioner

Through: Mr.(appearance not given), Advocate

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Sanjay Lao, A.S.C. for the State
with SI Parmod Kumar PS Subhash
Place

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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11.05.2016

1. By way of this writ petition filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C., petitioner has made the following prayers:-

- a) To issue direction to respondent Nos.1 to 3 to register FIR against the respondent Nos. 4 to 7 for unlawfully arresting and handcuffing the petitioner;
- b) To direct investigation of the case by the Crime Branch of the Delhi Police.

2. Status report on behalf of the State has been filed which is to the following effect:-

“On 11th June, 2014, a quarrel had taken place between the petitioner and his wife Prachi Srivastava. Prachi Srivastava was taken to hospital and MLC No.2777 at Bhagwan Mahavir Hospital was made. SI Kalicharan attended the PCR call DD

No.30 B dated 11th June, 2014. But no cognizable offence was made out. Hence, non-cognizable report under Section 323 IPC was lodged at PS Subhash Place vide DD No.11 A, dated 12th June, 2014 in this regard.

On 27th April, 2015, again a quarrel had taken place between the petitioner and his wife Prachi Srivastava. PCR Call DD No.12A was received at PS Subhash Place. SI Pradeep attended the call. He collected MLC No.1313/15 from BhagwanMahavir Hospital of Rajnish Srivastava. Nature of injury was found 'Simple'. No cognizable offence was made out. Hence, non-cognizable report u/s 323 IPC was lodged at PS-Subhash Place vide DD No.28B in this regard.

Further, Smt.Prachi Srivastava made several complaints against her husband Rajnish Srivastava. The same were enquired through CAW Cell/Pitampura and on 20th August, 2015 a case FIR No.695/2015 u/s 498-A/34 IPC was registered at PS-Subhash Place on the complaint of Smt.Prachi Srivastava.

Now, the petitioner Rajnish Srivastava filed this petition before the Hon'ble High Court for quashing the above FIR. ”

3. Attention of learned counsel for the petitioner has been drawn to the decision of Apex Court in ***Sakiri Vasu vs. State of U.P. and Ors. (2008) 2 SCC 409*** wherein the Apex Court has dealt with the remedies available to a person feeling aggrieved by non-registration of FIR by the local police. In paragraphs 26 & 27 of the Report, the Supreme Court has observed 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) 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 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?

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 Cr.P.C. 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 concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.

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.'

4. In view of the legal position referred to above and remedies available to the petitioner by filing criminal complaint, no direction is required to be issued in exercise of writ jurisdiction.

5. Writ petition is hereby dismissed.

PRATIBHA RANI, J.

MAY 11, 2016

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