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

+ **W.P.(CRL) 831/2016**

**AMIT GOEL**

..... Petitioner

Through: **Ms.Monika Dagar, Advocate**

versus

**STATE (GOVT OF NCT OF DELHI) & ORS**

..... Respondents

Through: **Mr.Ashish Aggarwal, A.S.C. for the  
State with Mr.Piyush Singhal, Adv.  
with SI Rakesh Sharma PS Vasant  
Kunj South**

**CORAM:**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

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**15.03.2016**

**CRL.M.A.4525/2016**

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

**W.P.(CRL) 831/2016**

1. The present petition has been filed by the petitioner under Article 226 of Constitution of India r/w Section 482 CrPC for seeking issuance of directions to the respondent Nos.1 to 4 to undertake the investigation of the complaint dated 21<sup>st</sup> September, 2015 of the petitioner or appoint any officer under the supervision of the Commissioner or any equivalent officer superior to the rank of the respondent No.5 to ensure free and fair investigation of the complaint of the petitioner. Respondent No. 1 in this case is State. Respondent No. 2 is the Commissioner of Police whereas respondent Nos. 3 and 4 are Dy. Commissioner of Police (South) and

Vigilance Branch respectively. Respondent Nos. 5 and 6 are private parties. The complainant had friendly relations with respondent No.5, a sub-Inspector in Delhi Police. The grievance of the petitioner is against respondent No. 5 with whom a collaboration agreement was allegedly entered for construction of a building at a plot owned by him at Vasant Kunj Enclave bearing No. B-353, comprised in Khasra No. 1039/2 min., in the revenue estate of Village Malikpur Kohli@Rangpuri, Tehsil Vasant Vihar. It is also the case of the petitioner that subsequently it was revealed that the property was not owned by respondent No. 5 but by respondent No. 6 and respondent No. 5 in conspiracy with respondent No. 6 allegedly committed fraud on the petitioner.

2. The prayer made in the writ petition is to the following effect:

*“In the above facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be graciously pleased to allow the petition of the petitioner and direct the Respondent no. 1-4 to undertake the investigation of the Complaint dated 21.09.2015 of the petitioner or appoint any office under the supervision of the Commissioner or any equivalent officer superior to the rank of the respondent no. 5 to ensure free and fair investigation of the complaint of the petitioner. “*

3. Learned counsel for the petitioner has been asked to explain as to under which provision of Cr. P.C. respondent Nos. 1 to 4 are authorized to conduct investigation.

4. Learned counsel for the petitioner replied that any officer can conduct investigation into the matter. Copies of the complaint placed on record as Annexure A1 and A2 which have been sent to the DCP (South) by speed post, are the subject matter of this writ petition in which the petitioner has prayed for investigation by the respondent Nos. 1 to 4.

5. In this case no FIR has been registered till date. A matter can be investigated by the investigating agency when a cognizable offence has been committed and FIR has been registered. Admittedly no FIR has been registered in this case. What is the course open to the petitioner if no FIR has been registered is the question that has come up for consideration before the Supreme Court in the case ***Sakiri Vasu vs. State of U.P. & Ors. (2008) 2 SCC 409***, wherein it was held 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. '*

3. 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 by this Court in writ jurisdiction.

4, Writ petition is hereby dismissed.

**PRATIBHA RANI, J.**

**MARCH 15, 2016/ 'pg'**

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