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

+ **W.P.(CRL) 905/2016**

ROZINA Petitioner

Through: Ms.Charu Dalal, Advocate

versus

STATE & ORS

..... Respondents

Through: Ms.Richa Kapoor, A.S.C. for the
State with SI Shekhar PS Sadar
Bazar

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **21.03.2016**

1. The present petition has been filed by the petitioner under Article 226 of Constitution of India r/w Section 482 CrPC seeking issuance of directions to the respondent Nos.1 to 4 register an appropriate criminal case against the respondents Nos.5 to 11 on the basis of the complaint of the petitioner.
2. Notice. Ms.Richa Kapoor, A.S.C. for the State accepts notice of this writ petition.
3. The petitioner had filed complaint against her in-laws who are respondent Nos. 5 to 11 in this petition. She had made complaint to the police authorities that she had been married to Late Mhd. Zahir in the year 2002. Her husband had expired in the year 2007. Her in-laws are threatening her to give up the claim in the properties mentioned in the complaint in which her husband had share or to face consequences.
4. Learned counsel for the petitioner submits that in view of the decision of the Supreme Court in “Lalita Kumari Vs. State”, information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected. FIR should have been registered and investigated by the police.
5. What is the course open to the petitioner if no FIR has been registered

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.'

6. 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.

7. Writ petition is hereby dismissed.

PRATIBHA RANI, J.

MARCH 21, 2016/ 'pg'/'hkaur'