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

+ W.P.(CRL) 993/2016

BHAGWATI DEVI

..... Petitioner

Through: Mr.Rajesh Sachdeva, Advocate

versus

S.H.O GTB ENCLAVE & ORS

..... Respondents

Through: Mr.Avininder Singh, A.S.C. for the
State with Ms.Anany Mohan, Adv.
with SI Kapil Kumar PS GTB
Enclave

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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29.03.2016

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:-

(i) To direct respondent No.1 to register an FIR on various complaints of the petitioner submitted with the police authorities against respondent Nos.2, 3 and 4 under the relevant provisions of the IPC, investigate and submit charge-sheet against them;

(ii) To direct respondent No.1 to protect the life and property of the petitioner and her husband.

2. Status report on behalf of the State has been filed.

3. In respect of the prayer (i) made in the writ petition for registration of

case against respondent Nos. 2 to 4, 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.'

4. Thus prayer No.(i) made in the writ petition is declined.
5. Respondent Nos. 2 and 3 are daughters of the petitioner and

respondent No.4 is the husband of respondent No.3. As per the status report, the dispute between petitioner and her daughters is in respect of property.

6. As far as prayer No.(ii) is concerned, the State is directed to provide necessary protection to the Petitioner through SHO concerned, after assessing the element of threat, if any. The State shall also ensure that mobile numbers of concerned SHO/Beat Constable as well as Senior Citizen Cell are provided to the Petitioner to enable her to contact if necessity arises.

7. Writ petition stands disposed of in above terms.

8. Order *dasti*.

PRATIBHA RANI, J.

MARCH 29, 2016

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