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

+ W.P.(CRL) 2734/2015

RAJNI

..... Petitioner

Through: Mr.M.M.Kashyap, Advocate

versus

NCT OF DELHI & ORS

..... Respondents

Through: Mr.Avininder Singh, A.S.C. for the
State with SI Sonal Raj, PS New
Usmanpur

Mr.Sandeep Kumar Tyagi, Adv. with
Respondent No. 3 in person

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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15.03.2016

1. The petitioner before this Court is complainant in case FIR No. 830/2015, registered under Section 498-A/406/34IPC at PS New Usmanpur. Respondent No. 1 and 2 herein are State and Commissioner of Police, Delhi respectively whereas respondent No. 3 is Sushil Kumar, husband of the petitioner. Respondent Nos. 4 to 9 are her in-laws. The prayer made in the writ petition is as under:

- a) To give direction to respondent No. 2 to return the Istridhan goods to the petitioner with immediate effect from husband Sushil Kumar.
- b) To arrest respondent No. 3 to 8 in FIR No. 830 of 2015 u/s 498A/406/34 IPC read with Section 4 D.P. Act.
- c) To file the charge sheet in FIR No. 830 of 2015 u/s 498-A/406/34 IPC read with Section 4 of Dowry Prohibition Act.
- d) To register case u/s 344/357/307/34IPC against the respondent No. 3 to 8 with immediate effect.

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2. Status report has been filed to the effect that respondent No.3, Sushil Kumar has been disowned by his family and he is living separately. Whatever dowry articles are available with him he is ready to return the same but the complainant is not willing to accept the same. It is also reported in the status report that all the respondents have joined the investigation.

3. The dispute between petitioner and respondent Nos.3 to 9 is matrimonial. In ***Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273***, Hon'ble Supreme Court has laid down the guidelines to be followed by the police in matrimonial dispute. Thus, the prayer of the petitioner for directions to arrest the respondent Nos.3 to 9 cannot be acceded to by the Court or by the investigating agency as no arrest can be made just on the asking of the complainant.

4. So far as return of istridhan and goods are concerned, status report has been filed that petitioner is not willing to accept the articles though her husband is willing to return the same. The prayer made by the petitioner for filing of the charge-sheet is concerned, the same can be filed only after the investigation is complete.

5. In respect of the prayer made in the petition for registration of the case under Sections u/s 344/357/307/34IPC against respondent Nos. 3 to 8, 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 above discussion, the writ petition is hereby dismissed.

PRATIBHA RANI, J.

MARCH 15, 2016

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