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

+ W.P.(CRL) 142/2016

PRAKASH KAUR & ANR Petitioners
Through: Mr.J.C.Mahindro, Advocate

versus

STATE/GOVT OF NCT OF DELHI & ANR Respondents
Through: Mr.R.S.Kundu, A.S.C. for Ms.Kamna
Vohra, A.S.C. for the State with SI
Manmohan Ahuja PS Rani Bagh

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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13.05.2016

W.P.(CRL) 142/2016

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

- a) To issue direction to respondent Nos.1 to 3 to register FIR against the respondent Nos. 4 & 5;
- b) To issue direction for restoration of possession of one room in property No.WZ-1732, Multani Mohalla, Rani Bagh (Third Floor), Delhi.

2. Attention of learned counsel for the petitioners 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.'

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

4. Writ petition is hereby dismissed.

CRL.M.A.836/2016

Dismissed as infructuous.

PRATIBHA RANI, J.

MAY 13, 2016/'pg'