

\$~5

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

+ W.P.(CRL) 2056/2016

PREM CHAND GARG Petitioner
Through: Ms.Seema Singh, Advocate

versus

UNION OF INDIA & ORS. Respondents
Through: Mr.Anupam S.Sharma, Spl. PP for
CBI with Mr.Prakarsh Airan,
Advocate
Mr.Anil Katarki & Mr.Anil Nishani,
Advocates for R-3 & R-4

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

15.11.2017

1. Learned counsel for the petitioner submits that she has been recently engaged in this matter and she shall file her vakalatnama during the course of the day.
2. The petitioner, Prem Chand Garg has invoked the writ jurisdiction of this Court impleading Union of India as respondent No.1, Mr.Anil Sinha, Director of CBI as respondent No.2, Mr.Ranjit Sinha, Ex-Director of CBI as respondent No.3 and Mr.Arunachalam, Additional Commissioner of Police (HQR.) as respondent No.4.
3. The prayers made in the writ petition are as under:-
 - (a) To direct respondent No.1 to register a case on information provided vide letter dated 19.11.2015 by petitioner against respondent Nos.3, 4 and unknown persons and carry out investigation in view of the law declared by Hon'ble Supreme Court in Lalita Kumari Vs. State of U.P., (2014) 2 SCC 1.

(b) To initiate action against respondent No.2 in view of the direction in Lalita Kumari's case (supra) for not registering and investigating the matter.

4. Heard.

5. The grievance of the petitioner is that the petitioner has provided information in writing to respondent No.2 vide communication dated 19th November, 2015. The contents of the above communication addressed to respondent No.2 disclosed commission of a cognizable offence by the respondent No.3 in conspiracy with respondent No.4 and other unknown person. The respondent Nos.1 and 2 did not register any case in violation of the law laid down by the Constitution Bench of Hon'ble Supreme Court in Lalita Kumari Vs. State of U.P., (2014) 2 SCC 1.

6. Learned counsel for the petitioner submitted that respondent No.1 through respondent Nos.3 and 4 and other unknown persons has implicated the petitioner in a false case on his refusal to accede to the extortion demand and he has been arrayed as accused No.3 in the charge-sheet and registered as CC No.54/14.

7. So far as the prayer (a) is concerned, the same is liable to be rejected in view of the decision of the Hon'ble Supreme Court in ***Sakiri Vasu vs. State of U.P. & Ors. (2008) 2 SCC 409***, wherein while deprecating the practice of the High Court by issuing directions for the registration of the FIR, 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. '

8. Respondent No.1 in this case is Union of India. There is no provision in the Code of Criminal Procedure under which FIR can be registered by Union of India.

9. In view of the legal position referred to above, the writ petition is dismissed.

PRATIBHA RANI, J.

NOVEMBER 15, 2017/ 'pg'