

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.5361 of 2019

ORDER:

This writ petition is filed seeking the following relief:

“.... to issue appropriate Writ order or direction more particularly one in the nature of Mandamus declaring the inaction of the respondents in not acting upon the petitioner's complaint dated 21.01.2019 thereby not registering FIR against the unofficial respondents in violation to the provision of Section 154 Cr.P.C. is arbitrary, illegal and against the well settled law rendered by this Honourable Court as well as the Apex Court in Lalitha Kumari vs State of U.P. reported in (2014) 2 SCC 1 consequently direct the respondents to register FIR and take action in pursuance of the petitioner's complaint dated 21.01.2019 and pass such other order or orders as are deemed fit and proper in the circumstances of the case.”

Heard the learned counsel for the petitioner, the learned Government Pleader for Home for respondent Nos.1 to 4 and perused the record.

Learned counsel for the petitioner would contend that though the complaint dated 21.01.2019 is filed against the respondents 5 and 6 herein, wherein cognizable offences were made out, no FIR was issued against the said persons. He further contended that there are serious allegations of fraud, fabrication and creation of documents as well as criminal breach of trust and misappropriation against the said respondents. In spite of that, the authorities concerned are not investigating into the case and issuing the FIR.

In view of submissions made, it is pertinent to state that when commission of cognizable offences is brought to the notice of the Station House Officer concerned, it is his duty to register the crime, issue FIR and then investigate the case. In the event of not issuing the FIR., an aggrieved person has a remedy available under Section 200 of Cr.P.C. The Magistrate has also power under Section

156(3) of Cr.P.C. to refer it to the police concerned for investigation. It is not appropriate to direct the Station House Officer to register the FIR without notice to the respondents 5 and 6.

In the given circumstances, the petitioner is entitled to file a complaint under Section 200 of Cr.P.C. and proceed in accordance with law.

With the above observation, the Writ Petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed.

DR. SHAMEEM AKTHER, J

Date: 22.04.2019
ssp

