

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRWP No.2180 of 2019  
DATE OF DECISION : 16<sup>th</sup> DECEMBER, 2019

Pardeep Kumar

.... Petitioner

Versus

State of Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

\* \* \* \*

Present : Mr. Naresh Chander, Advocate for the petitioner.

\* \* \* \*

**RAJBIR SEHRAWAT, J. (Oral)**

Although the present criminal writ petition has been filed under Article 226 of the Constitution of India praying for protection of life and liberty, however, the essence of the petition is for issuance of directions to respondent Nos.1 to 3 to take action on the representation filed by the petitioner against the respondent No.5. In essence the prayer is for a direction to register the FIR against respondent No.5.

This Court has already held in another petition i.e. ***CRM-M-20457 of 2019 decided on 06.05.2019***, that unless the statutory proceedings have already been initiated by a statutory authority or a Court, under Code of Criminal Procedure (for short, 'Cr.P.C'), Section 482 Cr.P.C cannot be invoked for issuance of any direction to the Police or the authorities. It has also been held in that case that inaction of Police in not registering the FIR on the complaint of a person is an administrative inaction at par with inaction of any other civil administrative authority. No criminal element is involved in such inaction on the part of the police. Hence, a petition on criminal side, for a

direction to police to register FIR or for decision on representation, is not maintainable. Although the present petition has been filed as Criminal Writ Petition invoking Article 226 of the Constitution of India, however, since there is no criminal element involved in the inaction of the police if they do not register an FIR on the complaint of a complainant, therefore, even a writ petition on criminal side, for a direction to register FIR, is not maintainable. Even the High Court Rules do not permit a criminal writ petition to be filed for a direction to register the FIR. The remedy can be a civil writ petition for issuance of mandamus under Article 226 of Constitution of India, directing the police to comply with the legal mandate as clarified by the Supreme Court in the case of ***Lalita Kumari v. Govt. of UP AIR 2012 SC 1515.***

In view of the above and at this stage, the counsel for the petitioner seeks permission to withdraw the present petition with liberty to avail alternative remedies; in accordance with law.

Dismissed as withdrawn with liberty aforesaid.

**16<sup>th</sup> DECEMBER, 2019**  
*‘raj’*

**(RAJBIR SEHRAWAT)**  
**JUDGE**

|                                   |            |           |
|-----------------------------------|------------|-----------|
| <i>Whether speaking/reasoned:</i> | <i>Yes</i> | <i>No</i> |
| <i>Whether Reportable:</i>        | <i>Yes</i> | <i>No</i> |