

February 15, 2022
Sl. No.2
Court No.1
SG/s.biswas

WPA (P) 57 of 2022

Abu Sohel
vs.
The State West Bengal and others
(Through Video Conference)

Mr. Soumik Ganguli, Advocate

... for the petitioner

Mr. Swapan Kumar Datta, ld. AGP,
Mr. Rajat Dutta, Advocate

... for the State

The grievance raised in this petition is that in respect of certain defalcations by Contai Prabhat Kumar College, the petitioner had made a complaint to the police, but on that complaint no action has been taken. The prayer made in the petition is to issue a mandamus commanding the respondent authorities to register an FIR and to initiate proper investigation on the basis of the complaint. Further prayer has been made to issue a direction to the Superintendent of Police to initiate an enquiry against the concerned Inspector-in-Charge as to why proceedings be not initiated against him for not taking action after receiving the complaint.

The grievance is in respect of non-registration of FIR on the basis of the complaint made by the petitioner therefore it is a grievance of personal nature, which cannot be agitated in a PIL. That apart, the writ under Article 226 of the Constitution is not a proper remedy seeking direction to register an FIR or to carry out the investigation.

If the petitioner has any grievance in respect of non-registration of the FIR or improper investigation, then the proper remedy available to him is to take recourse to the provision of Cr.P.C. The Hon'ble Supreme Court in the matter of *Sakiri Vasu vs. State of Uttar Pradesh and others* reported in (2008) 2 SCC 409 has held as under:

“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 Cr.P.C. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 Cr.P.C. before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).

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?”

In view of the above, we are of the opinion that the present writ petition cannot be entertained which is accordingly dismissed.

However, the petitioner will be at liberty to avail such other appropriate remedies as are available in law.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]