

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMP No.2130 of 2022

Gangadhar Behera

....

Petitioner

Mr. G.S. Mohanty, Advocate.

-versus-

State of Odisha & others

....

Opp. Parties

Mr. D. Mund,

Additional Government Advocate.

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

21.11.2022

Order No.

1. This matter is taken up through Hybrid Arrangement.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner, in this CRLMP, challenges the inaction of the I.I.C., Patngarh Police Station in registering his complaint lodged on 21.05.2022.
4. The Supreme Court in the case of **Sakiri Vasu -vrs- Govt. of U.P. and others**¹ held that if the petitioner has any grievance that his FIR has not been registered by the concerned police station, his first remedy is to approach the higher authority. If despite approaching the higher authority,

¹ (2008) 2 SCC 409

his grievance still remains, then he can approach the jurisdictional Magistrate under Section 156(3) of the Cr.P.C. instead of approaching to the High Court by way of a writ petition. Moreover, he has further remedy for filing a criminal complaint. It has also held that the jurisdictional Magistrate has very wide powers to direct registration of an F.I.R. and to ensure a proper investigation, and for this purpose, he can monitor the investigation to ensure that the investigation is done properly. The High Court should discourage the practice of filing a writ petition simply because a person has a grievance that his F.I.R. has not been registered by the police, or after being registered, proper investigation has not been done by the police. 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 interfere unless the said remedy is exhausted. Since there are so many alternative remedies are available, the present petitioner has unnecessarily rushed to this Court.

5. In such background, learned counsel for the petitioner submits that liberty may be granted to the petitioner to move the jurisdictional Magistrate under Section 156(3), Cr.P.C.

6. In such view of the matter, this Court grants liberty to the petitioner to move the jurisdictional Magistrate under Section 156(3), Cr.P.C. by filing an appropriate application

duly supported by an affidavit within a period two weeks. In the event, such an application is filed; the jurisdictional Magistrate is directed to proceed with the same in accordance with law, if there is no other impediment.

7. The CRLMP is accordingly disposed of.

8. Issue urgent certified copy of this order on proper application.

(Dr. S.K. Panigrahi)
Judge



amit