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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 788/2023.

Ms Sarika Dambhe d/o Haribhau Dambhe

-VERSUS-

State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Petitioner – Inperson.

Shri S.V. Narale, A.P.P. for Respondent No.1/State.

Shri M.A. Vishnu, Advocate for Respondent No.2.

Shri A.P. Thakre, Advocate for Respondent No.3.

Shri M.V. Rai, Advocate for Respondent No.4.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.

DATE : APRIL 26, 2024.

Heard the petitioner – in-person and learned
Counsel appearing for respondents.

2. The petitioner is a practicing lawyer at Wardha. There appears to be a rift in the lady lawyers practicing at Wardha. The petitioner alleges that on 31.05.2023, she has been assaulted by respondent nos. 2 to 4 in the Bar room within the Court premises in respect of which she has lodged a report. It is the grievance of the petitioner that the police did not investigated the matter, but, merely registered the same as

NC report bearing No.529/2023 for the offence punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code. The petitioner is therefore, seeking a direction to the police that they should register a cognizable offence and carry further investigation.

3. On the basis of the contentions of petitioner, already police have verified the contentions and having found that no offence of cognizable nature, registered the same as NC report. The petitioner is dissatisfied with the registration of NC report, and requested that the matter has to be investigated.

4. The Code of Criminal Procedure provides a mechanism and remedy to a person whose grievance has not been redressed by the police after lodging the report. The aggrieved person ought to have applied to the higher authorities of police in terms of Section 154[3] or to move the Magistrate under Section 156[3] seeking directions for registration of the first information report, or can file a private complaint in terms of Section 200 of the Code.

5. By all means the Magistrate is empowered to issue necessary directions and monitor the progress of investigation. Such legal position is laid down by the Supreme Court in its

decision in case of **Sakiri Vasu .vrs. State of Uttar Pradesh and others – [2008] 2 SCC 409**, wherein paragraph nos. 25 and 26 reads 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 of the CrPC. 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 of the CrPC 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] CrPC or other police officer referred to in Section 36 CrPC. 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] CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

6. In view of the above decision we have called upon the petitioner to approach to the concerned Magistrate on which she responded that there is a danger to her life in the Court of Magistrate at Wardha. No one is ready to take her brief. According to us that cannot be a reason to entertain the petitioner. When the law mandates to do certain things in a particular manner, it has to be done accordingly. The criminal proceedings at Wardha Court if continued, and petitioner feels unsafe at Wardha, she can move for transfer of her proceedings by resorting to the appropriate remedy.

7. In view of above, in writ jurisdiction we cannot issue directions to the police to register the offence under particular section which is a matter to be dealt with and adjudicated by the Magistrate. Criminal Writ Petition is therefore, disposed of.

JUDGE

JUDGE