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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 1643/2023
MRS. SONIAPetitioner

Through: Mr.Kunal Yadav, Advocate

versus

THE STATERespondent
Through: Mr.Amit Peshwani, Advocate for
Ms.Nandita Rao, ASC for State with SI Suraj
Kumar

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

% **ORDER**
08.10.2024

1. By way of present petition, the petitioner seeks the following prayer: -
“i) To issue Writ for registration of FIR by Delhi Police, P.S. Karol Bagh, New Delhi in complaint involving conspiracy, cheating, fraud, forgery and filing of petition (Arbn.) No. OMP Comm.7821/2019 against husband of petitioner in year 2019, though he had died 5 months earlier to alleged date of finance, i.e. 11.12.2016, in the interest of justice.”
2. In the present petition, the petitioner claims that her husband *late Sh. Janak Raj* obtained a loan and purchased a 3-wheeler/auto from *Shankar Auto*, Beri Wala Bagh, Shubhash Nagar, Delhi -110027. It is claimed that *late Sh. Janak Raj* had repaid the loan with interests, however, the said 3-wheeler/auto was not transferred in his name. Later, *late Sh. Janak Raj* expired on 11.12.2016. It is also claimed that in the proceedings initiated, on 19.11.2019, the court receiver seized the auto consequent to order dated 22.07.2019. There were also arbitration proceedings between the parties. Concededly, the petitioner has also approached the Court of Learned



Judicial Magistrate with an application under Section 156(3) Cr.P.C. seeking the prayer for registration of the FIR against the respondent. The said application is pending consideration and the next date of hearing is 24.12.2024. It is also informed that the petitioner has accepted certain amounts and entered into settlement with the accused in the OMP as well as in the proceedings initiated under Section 156(3) Cr.P.C.

3. Even otherwise, the present petition for the said prayer is not maintainable in terms of the decision of the Supreme Court in the case of Sakiri Vasu v. State of U.P. and Others reported as **(2008) 2 SCC 409** which in unequivocal terms holds as under:

'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?

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and



154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.

28. 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 ordinarily interfere.'

4. Considering the settled position of law as well as the fact that the petitioner has statedly entered into the settlement in the said ongoing proceedings, this court finds no reason to entertain the present petition. Accordingly, the present petition stands dismissed.

MANOJ KUMAR OHRI, J

OCTOBER 8, 2024

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