

Court No. 8
02.09.2025
Item No.28
PA (Chamber)

WPA (P) No. 243 of 2023

Munaruddin Sk.
VS
The State of West Bengal & Ors.

Mr. Md. Usuf Ali
Mr. Shahan Shah
Mr. Soumen Barman
...for the Petitioner

Mr. Jahar Lal De, AGP
Mr. Rudranil De
...for the State

1. Heard the learned counsel appearing on behalf of the petitioners and the respective parties.

2. The instant public interest litigation has been filed by the petitioner praying inter alia for the following relief(s):-

“(a) A Writ of or in the nature of Mandamus directing and Commanding the respondents to act in accordance with law and to investigate the matter and to take appropriate steps and/or action against the respondent nos. 7 and 8, the Rezia Bibi, Prodhan and Secretary of the Panchanandapur-I Gram Panchayet, Post Officer- Panchanandapur, Police Station- Mothabari, District-Malda, Pin-732207 and/or other accused persons involved in the matter within such a time bound period as to this Hon’ble Court may seem fit and proper;

(b) A writ of in the nature of Mandamus directing and commanding the respondents to consider and to disposes of the applications of the petitioner and

to take appropriate steps and/or action against the respondent nos. 7 & 8, the Rezia Bibi, Pradhan and Secretary of the Panchanandapur-I Gram Panchayet, Post Office-Panchanandapur, Police Station- Mothabari, District-Malda, Pin- 732207 and/or other accused persons involved in the matter within such a time bound period as to this Hon'ble Court may seem fit and proper;

(c) A writ of or in the nature of Certiorari directing the respondents to transmit and produce the entire records before this Hon'ble Court so that conscionable justice may be administered to the parties;

(d) Rule NISI in terms of prayer (a), (b) and (c) as above;

(e) Making the Rules absolute, if the respondents fail to show sufficient cause or return;

(f) Costs of, and incidental to this application;

(g) Such other or further order or orders as to Your Lordships may seem fit and proper."

3. In a nutshell the main grievance encompasses a scheme (Rupashree Prakashpa) introduced by the Finance Ministry, Govt. of West Bengal, granting one time financial aid to the tune of Rs. 25000/- to the economically stressed families for the marriages of the adult daughters of the poor families which have been misutilised and misappropriated by the Pradhan and the Secretary being the Respondent Nos. 7 & 8 herein. The petitioners being the villagers lodged a complaint before the concerned authority for taking appropriate steps against the

erring/delinquent Prodhan and the Secretary of the concerned Gram Panchayat but till date the same remained unconsidered and unanswered.

4. The main bone of contention of the writ petitioners are for taking necessary action by registering First Information Report (FIR) against the respondent Nos. 7 & 8 and to investigate and take necessary steps in accordance with law by the Respondent Nos. 2 & 3 in respect of misappropriation of public money.

5. The point involved in this case is no more res Integra. The question cropped up before a Division Bench of the Hon'ble Supreme Court in the case of Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage & Ors. Reported at (2016) 6 SCC 277 as to whether the remedy under Article 226 of the Constitution of India can be availed of if there exists inaction of Police in registering the FIR in relation to a cognizable offence. The Apex Court drawn the curtains on the said aspects in following words:

“2. This Court has held in Sakiri Vasu v. State of U.P., that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High court

under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an appointment under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu case because what we have found in this country is that the High courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.”(emphasis supplied)

6. Thereafter, a Division Bench of Madhya Pradesh High Court again dealt with this aspect by considering the Constitutional Bench judgment of Hon'ble Supreme Court in the case of:

- **Lalita Kumari v. Government of U.P. reported at (2014) 2 SCC 1 and in**
- **Aleque Padamsee v. Union of India reported at (2007) 6 SCC 171**
- **Sakiri Vasu v. State of U.P. reported at (2008) 2 SCC 409.**

7. It is also held by the Hon'ble Apex Court in the case of **Pravasi Bhalai Sangathan Versus Union of India and Others reported in (2014)**

11 Supreme Court Cases 477 observing that statutory provisions and particularly panel law provide sufficient remedy to curb the menace of "hate speeches" in the form of posts in twitter. Thus, person aggrieved must resort to the remedy provided under a particular statute.

8. After considering the above judgments, speaking for the Bench, Hemant Gupta, J. (as His Lordship then was) opined as follows:-

“The Constitution Bench in Lalita Kumari (supra) was considering the question as to whether registration of an FIR is mandatory, in case it discloses a cognizable offence. If the information does not disclose a cognizable offence, it mandates to conduct a preliminary enquiry. But, there is no mandate in the aforesaid judgment that his Court under Article 226 of the Constitution of India should issue a direction for registration of an FIR. Such a question has been specifically answered in Alege Padamsee (supra), Sakiri Vasu (supra) and Sudhir Bhaskar Rao Tambe (supra).” (Emphasis Supplied)

9. In view of the authoritative pronouncement of the Hon'ble Supreme Court and the Division Bench of the Madhya Pradesh High Court on the

above aspect, no writ of mandamus/direction can be issued for lodging of FIR. The petitioner has an efficacious remedy under the criminal law. Hence the PIL cannot be entertained.

10. However, liberty is reserved to the petitioner to avail remedy under the criminal law. It is made clear that this Court has not expressed any opinion on the merits of the case.

(SUJOY PAUL, J)

(SMITA DAS DE, J.)