

Court No. 8  
12.08.2025  
Item No.10  
PA (Chamber)

**WPA (P) No. 299 of 2022**

**Sumana Bandyopadhyay**

**VS**

**The State of West Bengal & Ors.**

**Dictated by Smita Das De, J.**

1. None appears for 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 commanding the respondents to initiate appropriate action against the private respondent for his statements uttered in public meeting reproduced in paragraph 5 of the writ petition;*

*b) A writ in the nature of Mandamus commanding the respondents to lodge First Information Report against the private respondent under punishable under Sections 153(b), 295(a), 298 and 505 of the Indian Penal Code for the words uttered in a public meeting reproduced in paragraph 5 of the writ petition;*

*c) A writ in the nature of Certiorari calling upon the respondents to certify and transmit all the records of this case to this Hon'ble Court and conscionable justice may be done by taking appropriate steps against the private respondent;*

*d) Pass appropriate order and/or orders and/or direction and/or directions;*

*e) Rule NISI in terms of prayers above;*

*f) Pass an interim order directing the respondents to show-cause as to why till date no steps have been taken against the respondent no. 4 for his words uttered in a public meeting as reproduced in paragraph 5 of this writ petition;*

*g) Ad-interim order in terms of prayers above;*

*h) Pass such other or further order or orders and/or direction and or directions as to this Hon'ble Court may deem fit and proper."*

**3.** The issue involved herein pertains to take action against private respondent for certain remarks made in a public meeting which had

hurt the religious sentiments on million of devotees. A complaint was lodged against the wrong doer but till date the same remained unconsidered.

**4.** The main bone of contention of the writ petitioner is for taking cognizance of the same made before the Police Authorities for taking necessary action by registering First Information Report (FIR) against the private respondent in accordance with law.

**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 mater. 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.)**