

December 8, 2025

(2) ARDR

**WPA 23976 of 2025**

Md. Siddique

Vs.

The State of West Bengal & ors.

Adv. B. N. Ray,

Adv. Shetparna Ray,

...for the petitioner.

Adv. Subhankar Das,

Adv. Moumita Bhattachayya,

...for the private respondent.

Adv. Suman Sengupta,

Adv. Sanatan Panja,

Adv. Sambuddha Datta,

....for the State.

Heard learned counsels for the parties.

Learned counsel for the petitioner places reliance on the authorities in Hari Krishna Mandir Trust vs. State of Maharashtra & ors. reported in (2020) 9 SCC 356, Pradeep Nirankarnath Sharma vs. State of Gujrat & ors. reported in 2025 Supreme (SC) 485, Lalita Kumari vs. Government of U.P. & ors. reported in 2013 Supreme (SC) 1032 and a judgment of a coordinate Bench of this Court delivered on 22<sup>nd</sup> April, 2025 in WPA 5591 of 2025 and submits that the law mandates the police authority to register FIR if cognizable offence is made out in the complaint.

Learned counsels for the State as well as the private respondent rely on the authority in Aleque Padamsee & ors. vs. Union of India reported in (2007) 6 SCC 171 and an order passed by an Hon'ble Division Bench of this Court presided over by the Hon'ble the Acting Chief Justice in WPA (P) 498 of 2022 dated August 4, 2025 and submit that

the petitioner ought to take recourse under Section 175 of the BNSS for redressal of his grievance.

Upon consideration of the submission made on behalf of the parties, this Court is of the view that there is no quarrel with the proposition of law that it is incumbent upon the police authority to register FIR in the event a cognizable offence has been stated in the written complaint before it. The issue which falls for consideration before this court is whether in the event police authority does not comply with the said mandate, the remedy of the petitioner lies in a writ petition or before the jurisdictional Magistrate under Section 175 of the BNSS. The Hon'ble Supreme Court has observed in no uncertain terms that in such a case, the petitioner has to approach the jurisdictional Magistrate under Section 175 of the BNSS for redressal of his grievance.

Though the authority Hari Krishna Mandir Trust (supra) spells out that the High Court exercising jurisdiction under Article 226 of the Constitution of India is duty bound to exercise power to issue writ of mandamus or in the nature of mandamus when the public authority has failed to exercise or has wrongly exercised discretion conferred on it by a statute, the fact situation in the said case can be distinguished from the present matter.

In view of the above, this Court is inclined to hold that the writ petition is not maintainable before this Court and is accordingly dismissed.

However, the petitioner is at liberty to approach the jurisdictional Magistrate under Section 175 of the BNSS for redressal of his grievance.

There shall however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Suvra Ghosh, J.)**