

26.11.2025
Item No.12
Ct. No.01
RP

MAT 1975 of 2024
+
IA No.CAN 1 of 2024

Munnaf Molla & Anr.
VS
The State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Sudip Sarkar
Mr. Raju Bhattacharyya
Mr. Bitun Sarkar

...For Appellants

Ms. Jayeeta Sinha
Mr. Sandip Mandal

...For State

Mr. Animesh Paul

...For Private Respondents

PER, SUJOY PAUL, ACJ.:

1. Parties are represented through their respective learned counsels.
2. Heard on admission.
3. The challenge is mounted in this intra-Court appeal is to the order dated 23.09.2024 passed in WPA No.20730 of 2024 whereby learned Single Judge disposed of the writ application of present appellants.
4. Learned senior counsel for appellants fairly submits that the principle relief before learned Single Judge was of two-fold. Firstly, it is prayed that the complaint of the appellants to police dated 20.5.2024 was not reduced in writing in the shape of FIR. Secondly, injunction order of learned Single Judge was required to be implemented. He fairly submitted that so far as the second relief in

relation to implementation of interim order passed by learned Civil Judge is concerned, admittedly remedy is not a writ application. Thus, he is not pressing the said relief in relation to this aspect. He confines his argument to the aspect of non-registration of the complaint dated 20.5.2024 to FIR.

5. We have heard learned advocate for appellants at length. Section 154(4) CrPC provides remedy in the event FIR is not registered by Station House Officer. After the Constitution Bench judgement of the Supreme Court in the case of Lalita Kumari vs. Govt. of UP & Ors. reported in (2013) 14 SCR 713 the matter came up for consideration before a Division Bench of Madhya Pradesh High Court as to whether writ petition is the proper remedy for issuing a direction for registration of FIR in the event there exists police action. The Madhya Pradesh High Court after considering Supreme Court judgments opined that writ petition is not a proper remedy. The relevant portion reads thus:

“6. 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)

7. 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.**

8. 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.

9. 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 this 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 Aleque Padamsee (supra), Sakiri Vasu (supra) and Sudhir Bhaskar Rao Tambe (supra)."

(Emphasis Supplied)

10. 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."

(Emphasis Supplied)

- 6.** A Division Bench of this Court has also applied the ratio of said judgment recently in WPA (P) 517 of 2022. Thus, the singular relief pressed by Mr. Bhattacharyya cannot be entertained. The remedy lies elsewhere.
- 7.** Accordingly, this intra-Court appeal and the connected application are disposed by reserving liberty to the appellants to avail the said remedy.

[SUJOY PAUL, ACJ.]

[PARTHA SARATHI SEN, J.]