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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1385/2025 & CRL.M.A. 12927/2025**
REENAPetitioner

Through: Mr. Dinesh Kumar Sharma, Mr. Jai Subhash Thakur, Mr. Shubham Mishra and Mr. Vijay Chaturvedi, Advocates.

versus

THE STATE & ANR.Respondents
Through: Mr. Sanjay Lao, SC (Crl.) with Mr. Priyam Agarwal, Advocate for State. SI Deepak, P.S. Mundka.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
29.04.2025

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1. The Petitioner alleges that she purchased the property bearing no. Plot No. 104-B, admeasuring 51 Sq. Yds. ('17 x 27') out of Khasra No. 85/23/2 situated in the revenue estate of Village Tikri Kalan, Delhi and the abadi known as Kabir Panth Dham, Tikri Extn., New Delhi-110041. She alleges that there is illegal construction work being undertaken on the said property. To this effect, she had filed a complaint dated 24th April, 2025, to the SHO, P.S. Mundka, however, no action has been taken on the said complaint.
2. In light of the foregoing, being aggrieved by the police's inaction on her complaint, the Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, seeking the following prayers:

“(a) To direct the S.H.O. of P.S. Mundka to expedite the complaint of

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the Petitioner dated 24/04/2025.

(b) To direct the S.H.O. to provide protection to the Petitioner, in the interest of justice.”

3. In the *prima facie* opinion of the Court, the allegations made in the present complaint indicate that the present dispute is in relation to certain constructions on the property in question by Respondent No. 2.

4. Mr. Sanjay Lao, SC (CrI.) for State, on instructions received from the Investigating Officer present in the Court, submits that the concerned police officer has called upon both parties to stop all construction on the property and approach the Civil Court to exercise their appropriate remedies under law.

5. In light of the above, no directions from this Court are called for. Nonetheless, if the Petitioner is aggrieved by the fact that no action has been taken on her complaint, the appropriate remedy is to invoke the jurisdiction of the Magistrate under Section 156(3) of the Code of Criminal Procedure, 1973¹ (now Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023²).

6. In case of *Sakiri Vasu v. State of U.P.*,³ after discussing the scope of powers of the Magistrate under Section 156(3) of the Cr.P.C., the Supreme Court made the following observations *qua* the High Court's power to entertain writ petitions seeking registration of FIRs or directions for proper investigation:

“24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) CrPC to order registration of a criminal offence and/or to direct the officer in charge of the police station

¹ “Cr.P.C.”

² “BNSS”

³ (2008) 2 SCC 409



concerned to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) CrPC, we are of the opinion that they are implied in the above provision.

25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 CrPC. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters and relegate the petitioner to his alternating remedy, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned under Section 156(3).

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) CrPC or other police officer referred to in Section 36 CrPC. 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) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. 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 CrPC 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 police officers concerned, and if that is of no avail, under Section 156(3) CrPC before the Magistrate or by filing a criminal complaint under Section 200 CrPC and not by filing a writ petition or a petition under Section 482 CrPC.

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.”

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[Emphasis supplied]

7. As evident from the above, the Supreme Court has categorically held that when the alternate remedy for seeking registration of FIR or direction qua investigation has been mandated under the Cr.P.C., the High Courts ought to be cautious to entertain writ petitions seeking such a relief. Therefore, this Court is not inclined to grant the relief as sought by the Petitioner.
8. The Petitioner shall be at liberty to approach the concerned Court for redressal of her grievance, in accordance with law.
9. Accordingly, the present petition is disposed of along with pending application.

SANJEEV NARULA, J

APRIL 29, 2025

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