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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6523/2025

SH PEAREY LAL VERMA

.....Petitioner

Through: Mr. Gaurav and Ms. Akansha,
Advocates (through VC)

versus

THE STATE GOVT OF NCT DELHI THROUGH
COMMISSIONER OF POLICE & ORS.

.....Respondents

Through: Mr. Akash Chatterjee, Advocate
(through VC) for R-1.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **03.07.2025**

1. The petitioner has filed the present petition, praying as under –

“(a) Issue a Writ of Mandamus directing Respondent No. 1 (State of Delhi) to conduct a detailed investigation into the fraudulent activities of Respondent No. 2 and its rebranded entity.

(b) Direct Respondent No. 2 (Kalpaka Transport Co. Pvt. Ltd./Kerala Transport Company) to compensate the Petitioner for the financial losses incurred due to their fraudulent actions.

(c) Direct the concerned authorities to blacklist the transporter from conducting business in Delhi to prevent future fraud.”

2. The factual background of the matter is that the petitioner is engaged in the manufacturing and supply of sewing machines. On 19.03.2019, the petitioner engaged Kalpaka Transport Co. Pvt. Ltd. / respondent no. 2 for the transportation of a consignment of sewing machines valued at ₹44,738/- from Delhi to Attingal, as per lorry receipt no. 51409514. However, the transporter later claimed that the consignment was destroyed in an accidental fire involving truck bearing registration number TN 36 AM 3793



near Solapur on 02.04.2019. It is submitted that the transporter neither delivered the goods nor compensated the petitioner.

3. Subsequently, it is submitted that in 2024, the petitioner once again engaged the same transporter, which was by then operating under a different name, Kerala Transport Company/ respondent no. 3, to transport another consignment valued at ₹1,72,000 from Delhi to Attingal under lorry receipt no. 21765576. However, it is submitted that the transporter again failed to deliver the consignment and this time claimed that the goods had been stolen from their warehouse. It is submitted that the transporter neither returned the goods nor offered any compensation, thereby committing a second act of fraud and breach of contract.

4. Being aggrieved of the same the petitioner has filed the present petition.

5. Upon consideration of the facts and material on record, this Court is not inclined to entertain the present petition in view of the intricate factual nature of the controversy and considering that it would be more efficacious for the petitioner to pursue alternative remedies, available under both civil and criminal law.

6. The settled legal position is that writ jurisdiction under Article 226 of the Constitution of India should not ordinarily be invoked where an equally efficacious alternative remedy is available. In **Union of India v. T.R. Varma**, 1957 SCC OnLine SC 30, the Supreme Court has observed as under

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“6.It is well-settled that when an alternative and equally efficacious remedy is open to a litigant, he should be required to pursue that remedy and not invoke the special jurisdiction of the High Court to issue a prerogative writ. It is true that the existence of another remedy



does not affect the jurisdiction of the Court to issue a writ; but, as observed by this Court in *Rashid Ahmed v. Municipal Board, Kairana* “the existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs”. Vide also *K.S. Rashid and Son v. Income Tax Investigation Commission*². And where such remedy exists, it will be a sound exercise of discretion to refuse to interfere in a petition under Article 226, unless there are good grounds therefor. None such appears in the present case.....”

7. In ***Radha Krishan Industries v. State Of Himachal Pradesh And Others***, 2021 6 SCC 771, the Court has observed as under -

“27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.



28. These principles have been consistently upheld by this Court in Chand Ratan v. Durga Prasad, Babubhai Muljibhai Patel v. Nandlal Khodidas Barot and Rajasthan SEB v. Union of India among other decisions.”

8. It is relevant to note that the petitioner has already lodged an FIR dated 26.09.2024 under Section 173 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), which is annexed as Annexure 5 to the petition.

9. The core grievance of the petitioner pertains to the alleged fraudulent conduct of respondent nos. 2 and 3 and the petitioner’s request for an investigation into the same. In this regard, it is open to the petitioner to approach the jurisdictional Magistrate under the appropriate provisions of the BNSS for seeking proper investigation. The writ remedy under Article 226, in the facts and circumstances of the present case, is neither appropriate nor warranted.

10. Furthermore, as regards the petitioner’s claim for compensation, this Court is of the view that assessment of the petitioner’s entitlement to compensation would entail an intricate adjudication of factual aspects. The same would require evidence to be adduced, not only as regards the underlying factual aspects but also as regards quantification of financial damages, if any. It is a well-settled that such an exercise may not be apposite in proceedings under Article 226 of the Constitution of India, and the petitioner must be relegated to its civil/other remedies.

11. In ***Deepak Construction, through its Proprietor, Deepak Kumar Mehta v. State of Jharkhand and Others***, 2024 SCC OnLine Jhar 2460 the Division Bench of the Jharkhand High Court has observed as under –

“11. So far as prayer No.(ii) is concerned, it has been submitted that due to the illegal act of the respondents, the writ petitioner has been made to suffer for eight months and, as such, he is entitled for damage, cost, etc.

12. This Court is of the view that the writ court sitting under Article 226



of the Constitution of India cannot assess the quantum of damage or compensation since the same requires adjudication by leading evidence for which the appropriate forum is else.

13. Accordingly, no positive direction can be passed in favour of the writ petitioner so far as prayer No.(ii) is concerned.”

12. In *Sivakasi Master Printer’s Association, Rep. by its President, Railway Feeder Road v. State of Tamil Nadu, Rep. By its Secretary, Department of Revenue and Others*, 2025 SCC OnLine Mad 1063, the Division Bench of the Madras High Court has observed as under –

“10. The building in question was admittedly 40 years old. Even if we accept the case of the petitioner, the writ Court sitting under Article 226 of the Constitution of India cannot assess the quantum of damages or compensation since the same requires adjudication by leading evidence for which the appropriate forum is the civil Court.”

13. In the circumstance, the petition is dismissed, with liberty to the petitioner to approach the appropriate forum/initiate appropriate proceedings, to ventilate the grievance/s raised by the petitioner in the present petition. It is made clear, that this order shall not be construed as an expression of opinion of this Court as regards the merits of the petitioner’s claims.

SACHIN DATTA, J

JULY 3, 2025/lr