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

+ **W.P.(CRL) 2865/2025**

MS RIZA PURI

.....Petitioner

Through: Mr. Amit Kumar, Ms. Aliza Ali, Mr. Ujjawal Malhotra, Advs.

versus

GOVT OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Yasir Rauf Ansari, ASC with Mr. Alok Sharma, Adv. with SI Sourabh Malik, PS KNK Marg and Insp. Sanjai Kumar, PS Prasant Vihar. Dr. Sarbjit Sharma & Ms. Laxmi Sharma, Advs. for R-1. Mr. Manish Kumar, Mr. Abhinav Singh, Advs. for R-2. Ms. Aditi Gupta, Ms. Sheffy Bhatia, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

09.09.2025

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1. The present writ Petition has been filed under Articles 226 and 227 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking directions to Respondent No. 1 to register an FIR and investigate the matter against Respondent No. 3, and direction to Respondent No. 2 to conduct an inquiry into the alleged professional misconduct resulting in the death.
2. Learned counsel for the petitioner submits that the present case arises out of the untimely death of the petitioner's father while under the care of



Respondent No. 3. It is submitted that this is not an isolated incident, as several other patients have also suffered due to similar acts of negligence at the said hospital. It is stated that at the time when an expensive injection was injected to the petitioner's father, no qualified neurosurgeon was present. It is submitted that such gross negligence, directly contributed to the deterioration and eventual death of the petitioner's father.

3. It is further submitted that the impugned FIR only records the road accident in which the petitioner's father was initially injured but fails to mention the subsequent negligence and misconduct of Respondent No. 3. The learned counsel submits that the omission of these crucial facts has resulted in a miscarriage of justice. Therefore, it is prayed that appropriate directions may be issued to Respondent No. 1 to register a fresh and proper FIR against Respondent No. 3 regarding the negligence. Furthermore, directions are also sought to Respondent No. 2 to conduct an independent inquiry into the recurring instances of negligence at the hospital/respondent no. 3.

4. Issue notice. Notice is accepted by the learned APP appearing for the State.

5. The Court has heard the learned counsel for the petitioner, who has approached this Court seeking directions for registration of an FIR against Respondent No. 3 and an inquiry into the alleged professional misconduct of Respondent no. 3 and their hospital staff. The grievance raised pertains to allegations of medical negligence and omission of material facts in the existing FIR bearing no. 379/225 (Annexure P4), which is claimed to have resulted in miscarriage of justice. However, it is well settled that when registration of an FIR or investigation into a cognizable offence is sought, an



efficacious statutory remedy lies under Section 156(3) CrPC(corresponding Section 175(3) BNSS), empowering the Magistrate to issue appropriate directions.

6. It is trite law that the extraordinary jurisdiction of this Court under Article 226 is not to be invoked where a specific and efficacious statutory remedy is provided by law. The Supreme Court in **Sakiri Vasu v. State of U.P.** (2008) 2 SCC 409, held that in cases where FIR is not registered by the police, the aggrieved party should ordinarily approach the Magistrate under Section 156(3) Cr.P.C., instead of directly invoking the writ jurisdiction of the High Court, which is to be exercised only in exceptional circumstances. The relevant para is as under;

“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).”

7. In the present case, the petitioner has not availed of the statutory remedy and has directly approached this Court. The allegations raised involve disputed questions of fact regarding medical treatment and negligence, which cannot be adjudicated in writ jurisdiction and require inquiry before the trial court.

8. In view of the above, this Court is of the considered opinion that the writ petition is not maintainable, as the petitioner has an efficacious alternative remedy under Section 175(3) BNSS (156(3) Cr.P.C.), to



approach the jurisdictional Magistrate for appropriate relief. The extraordinary writ jurisdiction cannot be invoked to bypass the statutory mechanism prescribed by law.

9. Accordingly, the present writ petition is dismissed with liberty to the petitioner to avail appropriate remedy before the competent Magistrate in accordance with law.

RAVINDER DUDEJA, J

SEPTEMBER 9, 2025/na