

March 18, 2026
Sl. No.17 & 18
Court No.1
s.biswas

MAT 119 of 2026
With
CAN 1 of 2026

Anirban Basu
vs.
The State of West Bengal and others

WITH

MAT 120 of 2026
With
CAN 1 of 2026

Srabani Dutta @ Srabani Datta and others
vs.
The State of West Bengal and others

Mr. Samiran Giri
... for the appellant(s)
Ms. Sucharita Roy
Mr. Debasish Kar
... for the State
Mr. Karan Dudhwewala
Mr. Arjun Bhajan
Mr. Shivam Pathak
Mr. Kamran Sk.
... for the respondent no.5

Dictated by Partha Sarathi Sen, J.

1. The affidavit of service as filed today on behalf of the appellant is taken on record.
2. Since in these two appeals, a common order dated 22.01.2026, as passed by the learned Single Bench in WPA No. 380 of 2026 with WPA No.29267 of 2025 are

impugned and in view of the fact that common questions of facts and laws are involved in the instant two appeals, we propose to dispose of these two appeals by a common order.

3. By the impugned order dated 22.01.2026, the learned Single Bench noticed that the complaint lodged by the writ petitioners has been taken due care of and with such finding both the writ petitions were dismissed.
4. For effective adjudication of the instant two appeals, we at the very outset propose to look to the prayers made by the present appellants in WPA No. 29267 of 2025. On perusal of the prayer portion of the WPA No. 29267 of 2025, it reveals that the writ petitioners have prayed for issuance of appropriate writ/writs against the respondent authorities, commanding them to take appropriate steps pursuant to the written complaint lodged by the petitioner, a copy of which has been annexed with the

said writ petition as annexure-P2 along with other ancillary reliefs.

5. In WPA No. 380 of 2026, the writ petitioners made identical prayers.
6. At the time of hearing, learned advocate appearing on behalf of the appellants/ writ petitioners submits before this Court that the learned Single Bench while passing the impugned order has failed to visualize that the private respondents who are local shop owners have no right to encroach upon the temple in question and to create nuisance therein as well as to restrain the local people from offering puja. It is submitted on behalf of the writ appellants/ petitioners that the learned Single Bench while passing the impugned order also failed to visualize that the police authorities are duty bound to take appropriate action against the private respondents pursuant to the written complaint of the writ petitioners in view of the fact in the said written complaint

commission of cognizable offence has been made out against the private respondents.

7. It is thus submitted that while allowing the instant two appeals, appropriate relief/reliefs may be granted to the writ petitioners in terms of the prayers made in the aforementioned two writ petitions.

8. *Per contra*, learned advocate appearing on behalf of the private respondent no.5 submits before this Court that in view of the judgment dated 17.12.2025 as passed by this Court in ***MAT No. 798 of 2025 (Abdul Rashid Khan vs. State of West Bengal and Others)*** no writ of mandamus can be issued to reduce a complaint to FIR and to take consequential action. It is thus submitted that learned Single Bench is very much justified in refusing the prayers as made in those two writ petitions.

9. Learned advocate appearing on behalf of the respondents-State supported the impugned order.

10. On careful perusal of the averments as made in the aforementioned two writ

petitions including other materials as placed before us and after hearing the learned advocate for the contending parties, it appears that there lies a dispute between the writ petitioners and the private respondents with regard to the performance of *sheba* puja of the deity of the said temple as well as with regard to the carrying out of different rituals in the said temple as would be evident from the report of the local police authorities as placed before the learned Single Bench.

11. On careful perusal of the report of the police as submitted before the learned Single Bench, it further appears that both the writ petitions and the private respondents are claiming their independent right to perform *sheba* puja of the deity of the said temple and other religious activities. It thus appears to us that the subject-matter of the aforementioned two writ petitions involves disputed questions of facts which cannot be dealt with by a writ court in absence of

any machinery to record evidence and appreciation of disputed question of facts on the basis of such evidence.

12. In view of such, we thus find that the learned Single Bench is very much justified in not entertaining the said two writ petitions.

13. In our further considered view, the aforementioned two writ petitions are also not maintainable in view of the consistent stand taken by this Court in a series of decisions wherein it has been held by this Court that no writ of mandamus can be issued to reduce a complaint into FIR and to take consequential action.

14. At this juncture, if we look to the prayers made in the aforementioned two writ petitions it reveals that the writ petitioners in those said two writ petitions basically prayed for issuance of appropriate writ/writs, commanding the respondent authorities, more specifically the police authorities to take appropriate action in

view of the written complaint lodged by the writ petitioners.

15. This Court in its judgment dated 25.02.2026 in **MAT No.1691 of 2023 (Aloke Kr Ghosh vs. State of West Bengal and Ors.)**, while considering the scope of issuance of writ of mandamus on account of non-registration of FIR on the basis of written complaint expresses the following view:

*“9. In order to arrive at a logical conclusion as to whether the writ petitioner is at all entitled to the said relief, we at the very outset propose to look to the judgment as passed by the Hon’ble Supreme Court in the case of **Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Others** reported in (2016) 6 SCC 277 wherein the Hon’ble Supreme Court expressed the following view:*

“This Court has held in Sakiri Vasu v. State of U.P. [(2008) 2 SCC 409], 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) Cr.P.C. 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”

10. This Bench in the judgment of Sourav Mitra Vs. Swati Chakraborty Bhattacharya and Ors. reported in 2025 SCC OnLine Cal

9425 has also taken similar view by holding that for non-registration of FIR by a police authority on the basis of a complaint, the appropriate forum is not the High Court.

11. In view of the proposition of law as decided by the Hon'ble Supreme Court in the case of **Sudhir Bhaskarrao Tambe (Supra)** and as has been followed by us in the case of **Sourav Mitra (Supra)**, we thus find that the Hon'ble Supreme Court practically deprecated the practice of approaching High Court with a prayer for issuance of appropriate writ/writs against the police authorities in the event a person has grievance that his FIR has not been registered by the police."

16. Similar view was taken by this Court in

MAT No. 798 of 2025 (Abdul Rashid Khan vs. State of West Bengal and Others).

17. In view of such consistent view as taken by this Court, we find no other alternative but to dismiss the instant two appeals by holding that aforementioned two writ petitions being WPA No. 380 of 2026 and WPA No. 29267 of 2025 are not maintainable.

18. With the aforementioned observation the instant two intra-court appeals are dismissed.

19. Consequently, all pending *inter locutory* applications as filed in connection with the instant two appeals are also dismissed.

20. Urgent photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)