

11.03.2026
Item No.10
PG/
Ct. No.1

**F.M.A. 1809 of 2025
With
I.A. No. CAN 1 of 2025
Ruidas Bain & Anr.
Versus
The State of West Bengal & ors.**

Mr. Pradip Kr. Roy, Sr. Adv.
Ms. Shruti Mitra
Ms. Sumedha Mukhopadhyay
Ms. Soumitra Chakraborty ..for the appellants

Mr. Lalit Mohan Mahata, Ld. AGP
Mr. Prasanta Behari Mahata....for the State

PER, SUJOY PAUL, CJ.:

1. Parties are represented through their respective learned counsel.
2. With the consent of learned counsel for the parties, the matter is finally heard.
3. Supplementary affidavit filed by the appellants is taken on record.
4. This intra-Court appeal takes exception to the order dated 17.09.2025 passed in W.P.A. 30633 of 2024, whereby learned Single Judge declined interference and gave liberty to the petitioners/appellants to avail the remedy available under section 175(4) of the BNSS.

5. In nutshell, the argument of learned counsel for the appellants was that appellants filed a writ petition seeking mandamus to register F.I.R. because the offender committed cognizable offence.
6. By placing reliance on the Constitution Bench judgment of Supreme Court in **Lalita Kumari vs. Government of U.P.** reported in **(2014) 2 SCC 1**, learned counsel for appellants submits that when cognizable offence is disclosed, it was imperative for the learned Single Judge to issue direction for registering of F.I.R.
7. The other side raised objection.
8. We have gone through the order of learned Single Judge. Learned Single Judge, after taking note of rival contentions and the report filed before it, opined that there exists disputed questions of fact. In this backdrop, the learned Single Judge opined that the appropriate remedy is to approach the jurisdictional magistrate under section 175(4) of the BNSS.
9. In the opinion of this Court, the point involved is no more *res integra*. This Division Bench,

after considering catena of Supreme Court judgments in **MAT 1691 of 2023 (Aloke Kr. Ghosh Vs. State of West Bengal & Ors.)** expressed 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.”*

10. In the light of this authoritative pronouncement, it is clear like noon day that appropriate remedy in a case of this nature is under the BNSS. The learned Single Judge has taken a plausible view, which does not warrant any interference. Interference is declined.

11. The appeal and the connected application are dismissed.

12. However, remedy, as left open to the appellants shall remain intact.

13. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)