

Vishal Rawat vs State Of U.P. Thru. Prin. Secy. Home ... on 31 January, 2025

Author: Sangeeta Chandra

Bench: Sangeeta Chandra

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:6733-DB

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 885 of 2025

Petitioner :- Vishal Rawat

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Sectt. Lko. And Others

Counsel for Petitioner :- Anjani Kumar Srivastava

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Shree Prakash Singh,J.

(1) Heard learned counsel for the petitioner, learned A.G.A., who appears for the State-respondents and Sri Shresth Agarwal, who has filed his Vakalatnama, which is taken on record.

(2) This petition has been filed with the following main prayer:-

"a. Issue a writ, order or direction in the nature of mandamus thereby seeking a direction to opposite parties to register a case in appropriate section on the complaint

of the petitioner and investigate the same, in the interest of law and justice.

b. issue a writ order or direction in the nature of mandamus thereby seeking a direction to opposite parties to take appropriate legal action against erring officer with respect to non compliance of the guidelines issued by Hon'ble Supreme Court in the case of Lalita Kumari vs. Government of U.P. and others (2014) 2 SCC, in the interest of justice."

(3) It is the case of the petitioner that he tried to lodge an FIR in Police Station Para, District Lucknow and also made complaint to the Commissioner of Police concerned and thereafter approached to the Additional Deputy Commissioner of Police (West) Lucknow regarding cognizable offence committed by the accused, however, the FIR was not lodged.

(4) The Hon'ble Supreme Court in the case of Lalita Kumari Vs. Government of Uttar Pradesh and others reported in (2014) 2 SCC 1, has observed that a Police Officer cannot avoid his duty for registering an offence if in the application cognizable offence discloses and in case they avoid such responsibility, an action to be taken against the erring Officer under Section 166-A of I.P.C. or Departmental Proceedings be initiated and such proceedings can be taken against erring Officer in not registering the FIR.

(5) The petitioner has moved an application to the Opposite party nos.2 to 5 to lodge an FIR in pursuance of the Guidelines issued by the Hon'ble Supreme Court.

(6) Learned A.G.A. has also pointed out that the judgment rendered by the Division Bench of this Court in the case of Waseem Haider Vs. State of U.P. and others reported in (2021) 2 ADJ 86, to say that after considering the law laid down by the Hon'ble Supreme Court in the Lalita Kumari's case (supra), this Court expressed its opinion that the informant has statutory remedy under Section 156 (3) Cr.P.C. or under Section 200 of Cr.P.C. The Paragraph-45 of the said judgment is being quoted hereinbelow:-

"45. Before parting, the conclusion arrived at based on the above discussion and analysis is delineated below for ready reference and convenience :-

(1) Writ of mandamus to compel the police to perform its statutory duty under Section 154 Cr.P.C can be denied to the informant/victim for non-availing of alternative remedy under Sections 154 (3), 156 (3), 190 and 200 Cr.P.C., unless the four exceptions enumerated in decision of Apex Court in the the case of Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Ors., (1998) 8 SCC 1, come to rescue of the informant / victim.

(2) The verdict of Apex Court in the case of Lalita Kumari Vs. Government of U.P. & Ors. reported in (2014) 2 SCC 1 does not pertain to issue of entitlement to writ of mandamus for compelling the police to perform statutory duty under Section 154 Cr.P.C without availing alternative remedy under Section 154 (3), 156 (3), 190 and

200 Cr.P.C..

(3) The informant/victim after furnishing first information regarding cognizable offence does not become functus officio for seeking writ of mandamus for compelling the police authorities to perform their statutory duty under Section 154 Cr.P.C in case the FIR is not lodged.

(4) The proposed accused against whom the first information of commission of cognizable offence is made, is not a necessary party to be impleaded in a petition under Article 226 of the Constitution of India seeking issuance of writ of mandamus to compel the police to perform their statutory duty under Section 154 Cr.P.C".

(7) This Court is of the opinion that if the petitioner is aggrieved by non-lodging of the FIR, therefore, he has appropriate remedy of filing a complaint under Section 156 (3) Cr.P.C. or under Section 200 of the Cr.P.C.

(8) This writ petition stands disposed of.

Order Date :- 31.1.2025 Renu/-