

Dr. Devendra Pratap Singh And Another vs State Of U.P. Thru. Prin. Secy. Home Lko. ... on 10 February, 2025

Author: Vivek Chaudhary

Bench: Vivek Chaudhary

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:8357-DB

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 1121 of 2025

Petitioner :- Dr. Devendra Pratap Singh And Another

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

Counsel for Petitioner :- Jai Shrinet,Aarsh Raj,Lakshmi Kant Tripathi,Narendra Shanker S

Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary,J.

Hon'ble Brij Raj Singh,J.

Learned counsel for petitioners prays to correct the description of petitioner no.1, in the memo of writ petition.

Prayer is allowed.

Let necessary correction be made during course of the day.

1. Heard learned counsel for the petitioners, learned A.G.A. for the State/respondents and perused the material placed on record.

2. This writ petition has been filed with the following main prayer :-

"a) Issue a writ, order or direction, in the nature of mandamus directing the respondents no.1 to 3 to restrain the private respondents to take law and order in their own hands and ensure that the petitioners may not be coerced to evacuate the plot in question.

b). To issue a writ, order or direction in the nature of mandamus directing Station House Officer, Police Station, Sushant Golf City to register an FIR under the Bhartiya Nyaya Sanhita, 2023 and direct that the investigation be carried on fairly and expeditiously."

3. Learned counsel for the petitioner has submitted that the petitioners had attempted to lodge the first information report against the respondents, but no heed was paid and the F.I.R. was not lodged. The petitioners also moved an application to the Police Commissioner, Lucknow on 08.05.2024, but till date FIR has not been lodged.

4. The 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 161-A of Cr.P.C. or Departmental Proceedings be initiated and such proceedings can be taken against erring Officer in not registering the FIR.

5. 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 Supreme Court in Lalita Kumari (supra), whereby 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. 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."

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

7. This writ petition stands disposed of.

(Brij Raj Singh,J.) (Vivek Chaudhary,J.) Order Date :- 10.2.2025 Arjun/-