

HIGH COURT OF MADHYA PRADESH**WP No.5111/2018****Sohan Vs. State of MP & Others****Indore, Dated: 31.07.2018**

Shri.D.Yadav, learned counsel for petitioner.

Shri P.Wadhwani, learned counsel for State.

Heard.

By this writ petition the petitioner has prayed for a direction to the respondents to register the FIR against the alleged accused persons.

In nut shell the case of the petitioner is that the alleged accused persons who have not been impleaded in the present writ petition, had committed the offence of cheating and kidnapping the petitioner. Hence, a complaint has been made by the petitioner to the police, but no FIR has been registered.

The State has filed the reply disclosing that the said private persons have already lodged the FIR against the petitioner for offence u/Ss.406, 409, 420/34 of the IPC with the allegation that the petitioner was their employee and had committed forgery and cheating and the police is in search of the petitioner for the alleged offence and that the petitioner has filed the present writ petition with a view to pressurise the respondents. An objection has also been raised that under the provisions of Cr.P.C, detailed procedure has been prescribed in case of non registration of the FIR.

Having heard the learned counsel for parties and on perusal of the record, it is noticed that the Cr.P.C provides

for a detailed procedure in case if on the basis of the complaint, the police authority do not register the FIR.

This court in WP No. 5793/2016 vide order dated 30/8/2016 in the matter of **Rajendra Verma Vs. State of MP and others** has examined this aspect of the matter and has held as under:

“In that case the issue of maintainability of the writ petition for directing the police authority to register the FIR was not involved.

The supreme court in the matter of **Sakiri Vasu Vs. State of UP and others** reported in (2008) 2 SCC 409 and Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and others reported in (2016) 6 SCC 277 has held that the remedy in such matter does not lie before the High Court under Article 226 of the Constitution but before the Magistrate concerned u/S.156(3) of the Cr.P.C. It has been held that if the petitioner has a grievance that the police station is not registering the FIR u/S.154 of the Cr.P.C, then he can approach Superintendent of Police u/S.154(3) of Cr.P.C by an application in writing and even if that does not yield any satisfactory result, it is open to the aggrieved person to file an application u/S.156(3) of the Cr.P.C before the Magistrate concerned and the Magistrate can direct the FIR to be registered and also can direct proper investigation to be made in case if it is alleged that no proper investigation was made.

Since the petitioner has an alternative remedy of approaching the Superintendent of Police u/S.154(3) Cr.P.C and then approaching the Magistrate u/S.156(3) of the Cr.P.C, therefore, no case for issuing any direction in the present writ petition is made out.

The writ petition is accordingly disposed of with liberty to the petitioner to avail such other remedies as are available under law.”

Having regard to the aforesaid and considering the fact that the petitioner has a detailed remedy available under the provisions of Cr.P.C, no case is made out to entertain the writ petition directly which is accordingly dismissed, however with liberty to the petitioner to avail such other remedies as are available in law.

(PRAKASH SHRIVASTAVA)
Judge

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