

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 29 of 2020

Date of order: 30.01.2020

Md. Moynal Hoque

Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. K. Sunar, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. Sr. GA

1. This writ petition has been filed by the petitioner Shri Md. Moynal Hoque, inter alia, with the prayer that the respondent-Police authorities be directed to cause an enquiry into his FIR dated 19.12.2019 and take action against the private respondents No. 4 and 5 who have forcibly encroached upon land of which he holds a valid patta and have started raising construction.

2. Learned counsel for the petitioner submitted that despite his approaching the police, neither have they registered his FIR nor taken any action against the respondents to such unauthorised construction. He also faced constant threat to his life and his family. Even though he requested the police to provide him protection but they have not done so.

3. Learned State counsel appearing for respondents No. 1 to 3, submits that as far as civil dispute is concerned he can file a civil suit for declaration as also injunction, if so advised. As regard the alleged criminal action of the respondents, the petitioner cannot straight away file a writ petition. Learned State counsel in the judgment of the Supreme Court in *Sakiri Vasu v. State of Uttar Pradesh & Ors.: (2008) 2 SCC 409*, argued that if a person is aggrieved that the police is not registering the FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police by an application in writing. Even if that does not yield any satisfactory result or even if no proper investigation is held, it is open to him to file an application under Section 156 (3) Cr.P.C. before the concerned Magistrate.

4. Having regard to the limited nature of the prayer, this writ petition is disposed of with a direction to the Superintendent of Police, West Garo Hills District, Tura to look into the grievance of the petitioner as to why necessary regular FIR is not registered and examine threat perception to the petitioner so as to decide whether he would require any protection. If the grievance of the petitioner is not redressed, he would be at liberty to approach the court of the Judicial Magistrate having jurisdiction by filing a regular civil complaint.

5. With the aforesaid observations and directions, the writ petition is disposed of.

Meghalaya
30.01.2020
"Sylvana PS"



(Mohammad Rafiq)
Chief Justice