

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY****Writ Petition No.13993 of 2022****ORDER:**

This Writ Petition for a mandamus is filed to give a direction to the Station House Officer of II Town Police Station, Madanapalle, to take cognizance of the report lodged by the petitioner on 21.03.2022 and to register an F.I.R. or Zero F.I.R. against the persons named therein for the offences punishable under Sections 420, 406, 506 r/w.34 of IPC.

2) Concise statement of facts, as pleaded in the writ petition, relevant to dispose of this Writ Petition may be stated as follows:

(a) The petitioner has admitted his son by name K.V. Rohith in UG Medical Course in BGS Global Institute of Medical Sciences, Bangalore, affiliated to Rajiv Gandhi University of Health Sciences, under the management quota. His son appeared for the first phase examinations held in the month of June, 2018 and he flunked in three subjects. He has appeared for supplementary examinations held in the month of September, 2018 and he again flunked in two subjects. When his son met one of the students of the college by name Preetham, who is the son of the Principal of the Institute, he advised him to contact Dr.Thej M. Jagdish. Accordingly, he met Dr.Thej M. Jagdish and he informed the son of the petitioner that



the students, who are admitted in the college under management quota, have to pay additional amount of money to be successful in the examinations and he introduced a person by name Prasanna Kumar to the son of the petitioner.

(b) The petitioner has paid Rs.3.00 Lakhs as per their demand. But, his son did not pass the examinations. Thereafter, his son again appeared for the examinations in June, 2019 without making any additional payment as demanded by Mr.Sandeep Pacchu and Mr.Prasanna Kumar over phone. So, the son of the petitioner fell unconscious due to tension on 15.07.2019. It is stated that though a sum of Rs.12.00 lakhs in total was paid, that the son of the petitioner did not pass in the examinations.

(c) So, complaining against the persons responsible for collection of money from the petitioner in Bangalore of Karnataka State to help his son to pass in the examinations, the petitioner has lodged a report dated 21.03.2022 with the Station House Officer of II Town Police Station, Madanapalle, where he is residing, in the State of Andhra Pradesh. It is alleged that the said report was not received by the Station House Officer of the said Police Station. Therefore, the petitioner has sent the said report to the Superintendent of Police through registered post. It is stated that, yet, no action is taken on the report lodged by the petitioner.



Therefore, the instant Writ Petition has been filed to direct the Station House officer of II Town Police Station, Madanapalle, to register F.I.R. on the basis of the report, dated 21.03.2022, lodged by the petitioner or to register a Zero F.I.R. and then to transfer the said Zero F.I.R. to the concerned Police Station in the State of Karnataka for investigation and to file a final report in the Court.

3) Respondent No.4 Station House Officer of II Town Police Station, Madanapalle, filed counter-affidavit stating that as the grievance of the writ petitioner is relating to non-registration of the F.I.R. on the report lodged by him on 21.03.2022 relating to the incidents alleged to have taken place in the State of Karnataka, that the Writ Petition seeking direction to police to register F.I.R. is not maintainable in view of the settled legal position as held by the Apex Court in **Sakiri Vasu v. State of U.P.**¹, reiterated in the case of **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage**². It is pleaded that this Court also held in **Chegireddy Venkata Reddy v. The Govt. of A.P.**³ that Writ Petition seeking mandamus for registration of F.I.R. is not maintainable as there is efficacious alternative remedy available to the aggrieved person under the

¹ (2008) 2 SCC 409

² (2016) 6 SCC 277

³ Common order, dated 30.07.2020, passed in W.P.No.8384 of 2020 & Batch. (APHC)



provisions of the Code of Criminal Procedure. Therefore, it is pleaded that in view of the settled legal position in this regard that the Writ Petition is not maintainable and thereby prayed for dismissal of the same.

4) Heard learned counsel for the petitioner Sri Umesh Chandra PVG and learned Government Pleader for Home Sri V.Maheswar Reddy, appearing for the respondents.

5) The dispute is commonplace, facts are simple, law is well settled, yet a combat. As usual, this Court is once again called upon to answer whether a writ for mandamus to direct the police to register F.I.R. is maintainable or not.

6) Placing reliance on the judgment of the Constitution Bench of the Apex Court rendered in the case of **Lalita Kumari v. Govt. of U.P.**⁴, wherein, while interpreting Section 154 Cr.P.C. and dealing with the scope of the said Section, the Apex Court held that when a report was lodged with the Police disclosing commission of a cognizable offence that it is mandatory on the part of the police to register F.I.R. and to investigate the same, learned counsel for the petitioner would submit that as the report that was lodged by the

⁴ (2014) 2 SCC 1



petitioner on 21.03.2022 with the Station House Officer of II Town Police Station, Madanapalle, clearly discloses commission of a cognizable offence that it is mandatory on the part of the Station House Officer of II Town Police Station, Madanapalle, to register the said report and his refusal to register the said report even on the ground of want of territorial jurisdiction to register the said report relating to the incidents that took place in the State of Karnataka, is *ex facie* illegal and unsustainable. He would submit that even if the police with whom the report was lodged has no territorial jurisdiction to investigate the case or even if the acts complained took place or the offence was committed beyond the territorial limits of the said Police Station, still the police officer has to register a Zero F.I.R. and then transfer the same to the concerned Police Station. Therefore, he would submit that the action of the 4th respondent Station House Officer of II Town Police Station, Madanapalle, in not registering the report lodged by the petitioner for want of territorial jurisdiction is legally unsustainable. He would also submit that even the Superintendent of Police of the district, to whom the report was sent by registered post, under Section 154(3) Cr.P.C., did not even take any action on it. Therefore, learned counsel for the petitioner would pray to direct the Station House Officer of II Town Police Station, Madanapalle, to



register a Zero F.I.R. on the basis of the report lodged by the petitioner on 21.03.2022 and then transfer the same to the concerned Police Station in Karnataka State, which got territorial jurisdiction to investigate the same. In support of the said contention, he relied on the judgment of the Delhi High Court rendered in the case of **Kirti Vashisht v. State**⁵, wherein it is held that Zero F.I.R. is to be registered by the police even if they do not have territorial jurisdiction to investigate the case and then transfer the same to the concerned police station, which got territorial jurisdiction.

7) The Writ Petition has been mainly opposed by the respondents on the ground that the Writ Petition itself is not maintainable seeking mandamus to direct the police to register the F.I.R. Sri V. Maheswar Reddy, learned Government Pleader for Home appearing for the respondents, would vehemently contend that in **Lalita Kumari**⁴, the Apex Court only held that it is mandatory on the part of the police to register F.I.R. when the report lodged with them discloses commission of a cognizable offence and the Apex Court did not say that in case the police fails to register any such F.I.R. on the basis of the report, which

⁵ Judgment, dt.29.11.2019, in CrI.M.C.No.5933 of 2019 & CrI.M.A.No.40833 of 2019 of Delhi High Court.



disclosed commission of a cognizable offence, that the party can approach the High Court and seek direction to the police to register the F.I.R. He would submit that, in fact, in the said situation, the remedy of the aggrieved person is by way of exhausting various other remedies provided under Cr.P.C. According to him, the aggrieved party has to either send report to the Superintendent of Police under Section 154(3) Cr.P.C. or approach the concerned Magistrate under Section 156(3) Cr.P.C. or can file a private complaint under Section 190 r/w. Section 200 Cr.P.C. and without availing the said remedies, which are available to the aggrieved person, that he cannot invoke the writ jurisdiction of the High Court under Article 226 of the Constitution of India seeking direction to police to register F.I.R. In support of his contention, he relied on the judgments of the Apex Court in **Sakiri Vasu**¹ and **Sudhir Bhaskarrao Tambe**².

8) Therefore, the paramount question for determination in this Writ Petition is whether the Writ Petition for mandamus is maintainable under law for issuance of any such direction to the police to register the F.I.R. or even a Zero F.I.R., as sought for by the petitioner or not?



9) As rightly contended by the learned Government Pleader for Home, the Apex Court only held in **Lalita Kumari**⁴ case that it is mandatory on the part of the police to register F.I.R. when the report lodged with the police discloses commission of a cognizable offence. The remedies open to the aggrieved person in case the report lodged by him is not registered by the police, are not dealt with by the Constitution Bench of the Apex Court in **Lalita Kumari**⁴ case. The legal position as to what is the remedy of aggrieved person when the report lodged by him with the police, which discloses commission of a cognizable offence, was not registered, has been dealt with by the Apex Court in **Sakiri Vasu**¹ case. The seminal question whether a writ petition seeking mandamus to direct the police to register F.I.R. in a case, where the report disclosing commission of a cognizable offence was not registered by the police, is maintainable or not, was also dealt with by the Apex Court in **Sakiri Vasu**¹ case.

10) Before considering the judgment of the Apex Court in **Sakiri Vasu**¹ case, it is pertinent to note that earlier even before **Sakiri Vasu**¹ case was decided, the issue whether aggrieved person can seek writ of mandamus directing the police to register a case fell for consideration before the Apex Court in **All India Institute of Medical Sciences Employees' Union through its President v.**



Union of India⁶. That was also a case where a writ was filed seeking mandamus directing registration of case against a former Director of All India Institute of Medical Sciences for commission of alleged cognizable offence punishable under Section 409 IPC. The Delhi High Court directed for institution of proceedings against the former Director of All India Institute of Medical Sciences for the offence punishable under Section 409 IPC. The Division Bench of the Delhi High Court refused to issue mandamus to police to investigate the case. The matter was carried to the Apex Court. The Apex Court held at paras.4 and 5 as follows:

“4. When the information is laid with the police but no action in that behalf was taken, the complainant is given power under Section 190 read with Section 200 of the Code to lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to inquire into the complaint as provided in Chapter XV of the Code. In case the Magistrate after recording evidence finds a prima facie case, instead of issuing process to the accused, he is empowered to direct the concerned police to investigate into the offence under Chapter-XII of the Code and to submit a report. If he finds that the complaint does not disclose any offence to take further action, he is empowered to dismiss the complaint under Section 203 of the Code. In case he finds that he complain/evidence recorded prima facie discloses offence, he is empowered to take cognizance of the offence and would issue process to the accused.

⁶ (1996) 11 SCC 582



5. In this case, the petitioner had not adopted either of the procedure provided under the Code. As a consequence, without availing of the above procedure, the petitioner is not entitled to approach the High Court by filing a writ petition and seeking a direction to conduct an investigation by the CBI which is not required to investigate into all or every offence. The High Court, therefore, though for different reasons, was justified in refusing to grant the relief as sought for.

11) Again, a Three-Judge Bench of the Apex Court in the case of **Aleque Padamsee v. Union of India**⁷ quoting the above **All India Institute of Medical Sciences Employees' Union through its President**⁶ case with approval and also considering the same legal position highlighted by the Apex Court in the other earlier cases, in **Gangadhar Janardan Mhatre v. State of Maharashtra**⁸; **Minu Kumari v. State of Bihar**⁹; and **Hari Singh v. State of U.P.**¹⁰, held at para.7 of the judgment as follows:

“7. Whenever any information is received by the police about the alleged commission of offence which is a cognizable one there is a duty to register the FIR. There can be no dispute on that score. The only question is whether a writ can be issued to the police authorities to register the same. The basic question is as to what course is to be adopted if the police does not do it. As was held in All India Institute of Medical Sciences's case (supra) and re-iterated in Gangadhar's case (supra) the remedy available is as set out above by

⁷ (2007) 6 SCC 171

⁸ 2004 CriLJ 4623

⁹ 2006 CriLJ 2468

¹⁰ 2006 CriLJ 3283



filing a complaint before the Magistrate. Though it was faintly suggested that there was conflict in the views in All India Institute of Medical Sciences's case (supra), Gangadhar's case (supra), Hari Singh's case (supra), Minu Kumari's case (supra) and Ramesh Kumari's case (supra), we find that the view expressed in Ramesh Kumari's case (supra) related to the action required to be taken by the police when any cognizable offence is brought to its notice. In Ramesh Kumari's case (supra) the basic issue did not relate to the methodology to be adopted which was expressly dealt with in All India Institute of Medical Sciences's case (supra), Gangadhar's case (supra), Minu Kumari's case (supra) and Hari Singh's case (supra). The view expressed in Ramesh Kumari's case (supra) was re- iterated in Lallan Chaudhary and Ors. V. State of Bihar (AIR 2006 SC 3376). The course available, when the police does not carry out the statutory requirements under Section 154 was directly in issue in All India Institute of Medical Sciences's case (supra), Gangadhar's case (supra), Hari Singh's case (supra) and Minu Kumari's case (supra). The correct position in law, therefore, is that the police officials ought to register the FIR whenever facts brought to its notice show that cognizable offence has been made out. In case the police officials fail to do so, the modalities to be adopted are as set out in Sections 190 read with Section 200 of the Code.”

12) Again the issue whether an aggrieved person can maintain a writ petition under Article 226 of the Constitution of India and seek a direction to the police to register the case when the report lodged by him with the police disclosing a cognizable offence is not registered, came up for consideration before the Apex Court in **Sakiri Vasu**¹ case. After analyzing all the relevant provisions of law



in Cr.P.C. elaborately, the Apex Court held at paras.26, 27 and 28 as follows:

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover, he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”



13) The Apex Court again in **Sudhir Bhaskarrao Tambe**² case, following the judgment in **Sakiri Vasu**¹ case, held as follows:

“.....We have said this in Sakiri Vasu’s *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. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3), Code of Criminal Procedure, and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.”

14) Then again, another Three-Judge Bench of the Apex Court in the case of **M.Subramaniam v. S. Janaki**¹¹, quoting with approval the judgment of the Supreme Court in **Sakiri Vasu**¹ case and also **Sudhir Bhaskarrao Tambe**² case, held that the High Court could not have directed registration of an F.I.R. with a direction to the police to investigate and file a final report in view of the judgment of the Apex Court in **Sakiri Vasu**¹ case and thereby has set aside the direction issued by the Madurai bench of the Madras High

¹¹ (2020) 16 SCC 728



Court entertaining a writ petition and issuing direction to the police to register F.I.R.

15) Thus, there is a long line of case law on this legal issue decided in catena of cases by the Apex Court. By way of these plethora of judicial pronouncements, the law is very well settled by the Apex Court and held that writ of mandamus to direct police to register F.I.R. is not maintainable.

16) Therefore, as per the ratio laid down in the above judgments of the Apex Court, when the petitioner being an aggrieved person got efficacious remedies under Section 154(3) Cr.P.C, Section 156(3) Cr.P.C. and Section 190 r/w.Sec.200 Cr.P.C., he has to avail the said remedies and without availing the said remedies, he cannot invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India seeking direction to the police to register the F.I.R.

17) The reason as to why a writ petition cannot be entertained has been also discussed elaborately by the Apex Court in the case of **Sakiri Vasu**¹ and other cases cited supra. It is held that if writ petitions are entertained seeking direction to police to register the F.I.R., without availing the various remedies provided to the aggrieved person under the provisions of Cr.P.C., that the High



Courts will be flooded with such writ petitions and has to devote much time of the High Court only for the purpose of dealing with such writ petitions and in disposing of the same. Though availability of alternative remedy is not an absolute bar for maintaining a writ petition, it is well settled law that the High Courts have placed self-imposed restriction on it not to entertain writ petitions when efficacious alternative remedy is available to the parties for redressal of their grievances. The said legal position has been also dealt with in **Sakiri Vasu**¹ case by the Apex Court.

18) The same analogy applies even to the maintainability of the writ petition seeking mandamus to direct the police to register a Zero F.I.R. As the Apex Court has authoritatively settled the law that writ of mandamus to direct police to register F.I.R. is not maintainable, as a logical corollary, it is to be held that even a writ of mandamus to direct the police to register Zero F.I.R. and then to transfer the F.I.R. to the concerned police station, is also not maintainable. The aggrieved person in the said circumstances also has to approach the concerned Magistrate under Section 156(3) Cr.P.C. and seek direction and he cannot maintain a writ seeking mandamus to direct the police to register a Zero F.I.R.



19) The contention of the learned counsel for the petitioner that as the Constitution Bench of the Apex Court held in **Lalita Kumari**⁴ case that registration of F.I.R. is mandatory in the cases which disclose commission of cognizable offence, that a direction is to be given to the police by the High Court by entertaining the writ petitions to register the F.I.R. to give effect to the said judgment of the Constitution Bench of the Apex Court is devoid of merit. In fact, when a similar contention was raised before this Court earlier in a batch of cases, in the case of **Chegireddy Venkata Reddy**³, this Court clearly explained with lucid elucidation the distinction between the ratio laid down by the Constitution Bench of the Apex Court in **Lalita Kumari**⁴ case and the ratio laid down by the Apex Court in **Sakiri Vasu**¹ case and other cases and clearly held that **Lalita Kumari**⁴ case did not deal with any law relating to the remedy available to the aggrieved person when report disclosing commission of a cognizable offence was not registered and clarified that the remedies are dealt with in **Sakiri Vasu**¹ case and clearly held that writ is not an appropriate remedy seeking direction to the police to register the case. It is held that the aggrieved party can approach even the Magistrate under Section 156(3) Cr.P.C. seeking direction to the police to register the F.I.R. and to investigate the same and he has to avail the said remedies. Thus, this Court has



clearly held while relying on the ratio laid down in **Sakiri Vasu**¹ case and other cases rendered subsequently on the point by the Apex Court, that the writ petition is not maintainable under Article 226 of the Constitution of India seeking direction to the police to register the F.I.R. and to investigate the same. Following the said judgment, this Court again in **Maddula Sunitha v. The State of A.P.**¹² held that the remedy of the aggrieved person is not by way of a writ under Article 226 of the Constitution of India, but only by way of exhausting the other remedies contemplated under Cr.P.C. i.e. under Section 154(3), Section 156(3) and Section 190 r/w.Sec.200 of Cr.P.C. and held that the writ petition seeking such direction to the police to register the F.I.R. is not maintainable. Also held, that this Court, in the case of **Chegireddy Venkata Reddy**³, has explained the distinction between the ratio laid down in **Lalita Kumari**⁴ case and the cases of like nature and clearly held that the writ petition is not maintainable. Thus, this Court has consistently taken a view as per the settled law that writ petition for mandamus is not maintainable seeking direction to police register the F.I.R. and that the aggrieved person has to avail the alternative remedy provided under the provisions of Cr.P.C.

¹² Order, dt.14.10.2022, passed in W.P.No.33561 of 2022 (APHC)



20) Apropos the contention of the learned counsel for the petitioner that even if the police with whom the report was lodged have no territorial jurisdiction to register the F.I.R. that the said police have to register a Zero F.I.R. and then transfer the said F.I.R. to the concerned police station having territorial jurisdiction to investigate the same is concerned, the said direction also cannot be given in a writ petition in view of the settled law that the writ petition itself is not maintainable seeking direction to the police to register the F.I.R. Even to seek the said direction to register Zero F.I.R., the petitioner can as well approach the concerned Magistrate under Section 156(3) Cr.P.C. Therefore, when he got an efficacious remedy to seek the said direction, he cannot invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India. Even if the remedy of approaching the Superintendent of Police under Section 154(3) Cr.P.C. is exhausted and when there is no response from the Superintendent of Police, then also, the aggrieved person has to approach the concerned Magistrate under Section 156(3) Cr.P.C. and seek direction to register the F.I.R. and to investigate the same. The said legal position is also clearly explained in **Sakiri Vasu**¹ case by the Apex Court.

21) Be that as it may, admittedly, the alleged acts complained by the petitioner relating to commission of alleged offences by the



persons named in the report took place in Bangalore in the State of Karnataka, where the son of the petitioner is studying. Therefore, the petitioner has to first lodge a report with the concerned Karnataka Police and then if they refuse to register the F.I.R., he has to approach the concerned Superintendent of Police under Section 154(3) Cr.P.C. and if there is no response from him, then he has to approach the concerned Magistrate in the State of Karnataka under Section 156(3) Cr.P.C. He also got remedy of filing a private complaint before the concerned Magistrate in the State of Karnataka under Sections 190 r/w.200 Cr.P.C. Admittedly, the petitioner did not lodge any report with the Karnataka police. Instead of lodging any such report with the Karnataka Police, he has chosen to lodge a report with the Station House Officer of II Town Police Station, Madanapalle in the State of Andhra Pradesh. When the Court specifically questioned the learned counsel for the petitioner, during the course of hearing the arguments, as to why the petitioner did not lodge a report with the Karnataka Police having jurisdiction, he would submit that as the accused are influential persons, that they may manage the Karnataka police and as such, he did not lodge the report with the Karnataka police. The said contention is absolutely devoid of any merit and the same cannot be countenanced. It is purely an



imaginary apprehension. To a pointed question, as to why he did not approach the concerned Magistrate under Section 156(3) Cr.P.C. in the State of Karnataka, learned counsel for the petitioner would submit that he has no proper answer to the same. Thus, it is very much clear that the petitioner is choosing his own police station according to his convenience without approaching the concerned police who got territorial jurisdiction and the concerned Court, in the State of Karnataka, where the alleged offence took place according to him. Such a course of action is not permissible under law. It appears that the petitioner has taken undue advantage of the judgment of the Delhi High Court rendered in the case of **Kirti Vashisht**⁵ that a Zero F.I.R. is to be registered by the police even when they have no territorial jurisdiction and then transfer the same to the concerned police station, has lodged a report with the Station House Officer of II Town Police Station, Madanapalle, and then approached this Court. So, it is clear that this is a speculative writ petition. If such speculative writ petitions are entertained contrary to the law laid down by the Apex Court in **Sakiri Vasu**¹ case and other relevant judgments, discussed supra, it leads to an anomalous situation and again the same difficulty expressed by the Apex Court in **Sakiri Vasu**¹ case that High Courts would be flooded with such writ petitions would arise and it leads



to much more hazardous situation of people approaching the High Court seeking direction to police to register the Zero F.I.R. and then transfer the same to the concerned Police Station. This Court cannot be incognizant and oblivious of the said predicament while dealing with such speculative writ petitions.

22) As regards the concept of registration of “Zero F.I.R.” is concerned, “Zero F.I.R.” is an exception to the general rule of assigning number to the F.I.R. that is registered in a police station on the basis of the report that is lodged with the police. Therefore, a Zero F.I.R., as the name implies, is an F.I.R. without a serial number. A Zero F.I.R. would be registered in any police station where the information about a cognizable offence is received irrespective of whether it has territorial jurisdiction or not. Police can enquire or investigate the case on the basis of the Zero F.I.R. that is registered and if the police officer is of the opinion that the offence did not take place within the limits of his jurisdiction, he can send/transfer the F.I.R. to the appropriate police station, which got jurisdiction.

23) The procedure of registration of Zero F.I.R. was introduced as per the recommendation made in Justice Verma Commission Report, after the heinous crime that took place in Nirbhayas case



in New Delhi in the year 2012. The Commission made several recommendations to incorporate certain provisions in the Indian Penal Code and also in the Criminal Procedure Code. One of the recommendations made to incorporate a provision in the Criminal Procedure Code is as follows:

“c) In addition to every individual being able to register an FIR at any police station irrespective of the jurisdiction in which the crime was complained of in writing, every individual must also be able to register his complaint online on a designated website. After this a complaint number should be automatically generated so the complainant can track the FIR.

The same complaint would then be generated at the nearest police station and a copy would also be provided to an ombudsman office located in every district. It will still be the case that an FIR cannot be registered anonymously and the individual who has registered an FIR online will then have to go to any police station to verify his identity and the FIR. The Delhi Police already have the facility for online registration and tracking of FIR. Something of this nature must be replicated and made operational across the country. The FIR should also be recorded on a national online database for ready accessibility by the complainant.”

24) Pursuant to the said recommendations, certain provisions are incorporated in the Indian Penal Code and also in the Criminal Procedure Code, by way of the Criminal Law (Amendment) Act, 2013. However, no provision is incorporated in the Criminal Procedure Code for registration of F.I.R. in any police station irrespective of the jurisdiction, when the crime was complained of



in writing as recommended by the Commission. Yet, the Delhi High Court in **Kirti Vashisht**⁵ case held that after the aforesaid recommendation, the practice of registering Zero F.I.R. is prevalent throughout India from the last many years and has given a direction to the Commissioner of Police, New Delhi to issue circular/Standing Order to all the Police Stations in NCT of Delhi and all concerned to register a Zero F.I.R. if a report disclosing commission of a cognizable offence is received in a police station even if the offence took place within the jurisdiction of the other police station, and thereafter, to transfer the same to the concerned police station. Pursuant to the direction given in **Kirti Vashisht**⁵ case, the Commissioner of Police, New Delhi, issued Circular, dated 20.12.2019, to all the police stations to register Zero F.I.R. irrespective of the territorial jurisdiction of the police station.

25) The Delhi High Court in another case, in **Neelu Shrivastava v. State**¹³, after considering the import of Section 154 Cr.P.C. and the judgment of the Constitution Bench of the Apex Court in **Lalita Kumari**⁴ case, held at para.14 of the judgment as follows:

“14. From a combined reading of the provision and the precedents, it can be stated that the only difference between 'FIR'

¹³ Judgment, dt.30.11.2021, in WP (CrI) No.481 of 2020 of Delhi High Court.



and 'Zero FIR' is that an FIR is registered where the incident has occurred within the jurisdiction of a particular Police Station, and a zero FIR can be lodged at any Police Station irrespective of where the incident has taken place. A zero FIR is admittedly more efficient and is meant to provide quick redressal to the victim so that timely action can be taken after registration of the FIR. A glance through Circular 15/2019 by the Office of the Commissioner of Police, Delhi, dated 20.12.2019, issued in pursuance of instructions given by the Delhi High Court in *Kirti Vashisht v. State of NCT of Delhi & Ors.*, [Writ Petition (Crl.) No. 5933/2019], also stipulates the directions that are to be followed with regard to a "Zero FIR".

26) Then, the Karnataka High Court in the case of **Umapathi S. v. The State of Karnataka**¹⁴, after considering the directions issued by the Government of India, Ministry of Home Affairs, to the State Governments and Union Territories, and in particular, the advisory dated 06.02.2014, wherein it is specifically stated that even if an offence has been committed outside the jurisdiction of the Police Station, the concerned Police Officer is under an obligation to register "zero" F.I.R. and transfer the same to the appropriate Police Station in accordance with the provisions of Cr.P.C., directed the State Government to issue instructions/directions to all police stations in the State, as indicated above in terms of the advisory, dated 10.05.2013 and 06.02.2014 through the D.G.P. and to place the directions in public domain and on

¹⁴ Order, dt.19.09.2019, passed in W.P.30666 of 2019 of Karnataka H.C.



official website of the State Government, so that the citizens become aware of the same. Considering the said direction given by the Karnataka High Court, the D.G.P. of State of Andhra Pradesh also issued a circular memo, dated 02.12.2019, to the police officers in the State to register F.I.R. even if the alleged offence is committed outside the territorial jurisdiction of the police station and thereafter to transfer the same to appropriate police station.

27) Thus, even though no provision is incorporated in the Criminal Procedure Code to give effect to the recommendation of the Commission, still by a Judge made law, as discussed above, effect is given to the recommendations of the Justice Verma Commission and made it obligatory on the part of the police to register F.I.R. irrespective of territorial jurisdiction where the offence took place and then to transfer the F.I.R. to the concerned Police Station.

28) It is significant to note that in all the above judgments of Delhi High Court in **Kirti Vashisht**⁵ and **Neelu Shrivastava**¹³ and of Karnataka High Court in **Umapathi S.**¹³, they are not the Writ Petitions filed seeking direction to register F.I.R. or a zero F.I.R. It is not held in the said judgments that writ to direct police to register Zero F.I.R. is maintainable. In fact, that was not the issue



involved in the said cases. While dealing with facts in the said cases, incidentally, it is held that police cannot refuse to register F.I.R. on the ground that it has no territorial jurisdiction as the offence took place outside the jurisdiction of the said police station and held that even in such cases, a Zero F.I.R. is to be registered and then to transfer the same to the concerned police station. Therefore, that is the only sublime essence or the *ratio decidendi* that is laid down in the said cases, which is almost akin to **Lalita Kumari**⁴ case. In **Lalita Kumari**⁴ case it is held that when a report is lodged with the police disclosing commission of a cognizable offence, it is mandatory on the police to register F.I.R. and to investigate the case. In the above judgments of the Delhi High Court and Karnataka High Court, it is held that even if a report is lodged disclosing commission of a cognizable offence, which took place outside the jurisdiction of the said Police Station, the police cannot refuse to register F.I.R. and still the police has to register a Zero F.I.R. and then transfer the F.I.R. to the concerned Police Station. That is the only difference between the two judgments. But, the principle is one and the same. In none of the said judgments, it is held that in case an F.I.R. is not registered or a Zero F.I.R. is not registered, in both the situations that the aggrieved person can approach the High Court under Article 226 of



the Constitution of India and seek a direction to register an F.I.R. or Zero F.I.R. No such law is laid down either in the **Lalita Kumari**⁴ case or in the aforesaid judgments of the Delhi High Court and the Karnataka High Court. Therefore, the petitioner cannot rely on those judgments and seek to maintain the present Writ Petition filed for a mandamus to direct the police to register an F.I.R. or a Zero F.I.R. So, the contention of the learned counsel for the petitioner that in view of the law laid down by the Apex Court in **Lalita Kumari**⁴ case, and in **Umapathi S.**¹³ case (of Karnataka High Court) and **Neelu Shrivastava**¹³ case (of Delhi High Court), that the writ for mandamus is maintainable and direction is to be given to the police to register the Zero F.I.R. is misconceived and unsustainable under law. The appropriate remedy is not the writ and the party has to avail the remedies contemplated under Cr.P.C. as discussed in detail supra, as per the settled law.

29) To sum-up, writ for a mandamus or even a petition under Section 482 Cr.P.C., to direct police to register an F.I.R. or a Zero F.I.R. is not maintainable. The aggrieved person has to avail his remedies contemplated under Cr.P.C.



30) Therefore, the Writ Petition is dismissed. However, the petitioner is at liberty to avail his remedies contemplated under Cr.P.C. No costs.

As a sequel, miscellaneous applications, pending if any, shall also stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date:09-11-2022.

Note:

- 1) L.R. copy to be marked.
- 2) Issue C.C. by 10.11.2022.

B/O
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***HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

+ Writ Petition No.13993 of 2022

% Dated 09-11-2022

K.V.Bhaskar

..... Petitioner

Vs.

\$ The State of Andhra Pradesh rep. by its Principal Secretary, Home Department, AP Secretariat, Velagapudi, A.P. & Ors.

.....Respondents

! Counsel for the petitioner : Sri Umesh Chandra PVG,
Learned Counsel.

^ Counsel for respondents: Sri V.Maheswar Reddy,
Learned Government Pleader for Home

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> HEAD NOTE:

? Cases referred:

1. (2008) 2 SCC 409
2. (2016) 6 SCC 277
3. Common order, dated 30.07.2020, passed in W.P.No.8384 of 2020 & Batch. (APHC)
4. (2014) 2 SCC 1
5. Judgment, dt.29.11.2019, in CrI.M.C.No.5933 of 2019 & CrI.M.A.No.40833 of 2019 of Delhi High Court.
6. (1996) 11 SCC 582
7. (2007) 6 SCC 171
8. 2004 CriLJ 4623
9. 2006 CriLJ 2468
10. 2006 CriLJ 3283
11. (2020) 16 SCC 728
12. Order, dt.14.10.2022, passed in W.P.No.33561 of 2022 (APHC)
13. Judgment, dt.30.11.2021, in WP (CrI) No.481 of 2020 of Delhi High Court.
14. Order, dt.19.09.2019, passed in W.P.30666 of 2019 of Karnataka H.C.



IN THE HIGH COURT OF THE STATE OF ANDHRA PRADESH

Writ Petition No.13993 of 2022

K.V.Bhaskar

..... Petitioner

Vs.

The State of Andhra Pradesh rep. by its Principal Secretary, Home Department, AP Secretariat, Velagapudi, A.P. & Ors.

.....Respondents

ORDER PRONOUNCED ON: 09-11-2022

HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

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|---|-------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | -- |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | -Yes- |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | -Yes- |

JUSTICE CHEEKATI MANAVENDRANATH ROY