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**(2025) 12 CAL CK 0018**

**Calcutta HC**

**Case No:** M.A.T. 1516 Of 2025

Timir Kanti Biswas

APPELLANT

Vs

State of West Bengal & Ors

RESPONDENT

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**Date of Decision:** Dec. 11, 2025

**Acts Referred:**

- Constitution of India, 1950- Article 226
- Code of Criminal Procedure, 1973- Section 156(3)

**Hon'ble Judges:** Sujoy Paul, Acj; Partha Sarathi Sen, J

**Bench:** Division Bench

**Advocate:** Sankar Prasad Dalapati, Sanjib Kumar Mukhopadhyay, Nargish Parveen, Swapan Banerjee, Diptendu Narayan Banerjee

**Final Decision:** Disposed Of

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**Judgement**

Sujoy Paul, Acj

1. Mr. Mukhopadhyay, learned counsel appears on behalf of the appellant, Mr. Banerjee, learned counsel appears on behalf of the State and Ms. Mondal, learned counsel appears for respondent no.16.

2. Report has filed by the State in Court and the same is taken on record.

3. In the writ petition, petitioner/appellant has prayed for following reliefs:-

(a) A writ of and/or in the nature of Mandamus do issue thereby directing the respondent authorities:-

(i) To act and proceed in accordance with law;

(ii) To ensure the absolute physical possession of the said 10 cottahs (16.5 decimals) at layout Plot No. 51, C.S. Plot No. 1202 (P), J.L. No.32 at Mouza Ballavipore, Police Station Dhaneakhali, District Hooghly, by the writ petitioner;

(iii) To direct the Officer-in-Charge, Police Station Dhaneakhali, the respondent no.9 herein to register a First Information Report on the basis of the said 2 (two) lawyer's letters dated March 25, 2025 and April 21, 2025, being Annexure "P-13 and P-14 respectively submitted by the writ petitioner and to cause responsible investigation in the matter;

(iv) To monitor investigation to be conducted by the respondent no.9 in terms of the decisions passed by the Hon'ble Apex Court of this country in Romila Thapar Versus Union of India, AIR 2018 Supreme Court 4683=2018 (10) SCC 753 and in Manohar La Sharma Versus Union of India, Writ Petition (CRL.) No. 314 of 2021;

(b) A writ of and/or in the nature of Certiorari thereby directing the respondent authorities to certify and transmit to this Hon'ble Court all relevant records of the present case and upon perusal thereof to pass necessary orders;

(c) A writ of and/or in the nature of Prohibition thereby prohibiting the respondent authorities and their men and agents from doing any act, deed or thing which may cause prejudice and/or harm to the writ petitioner

And

To pass a further order thereby restraining the respondent nos.12, 13, 14 and 15 from alienating /encroaching /encumbering /transferring /selling or creating any third party interest in any part of the said 10 cottahs (16.5 decimals) of land at layout Plot No 51, C.S. Plot No. 1202 (P), J.L. No. 32 at Mouza Ballavipore, Police Station Dhaneakhali, District Hooghly;

(d) Rule NISI in terms of prayers (a), (b) and (c) above;

(e) An interim order may be passed during the pendency of the present case thereby restraining the respondent nos. 12, 13, 14 and 15 from alienating / encroaching/selling/ encumbering/ transferring or creating any third party interest in any part of the said 10 cottahs (16.5 decimals) of land at layout Plot No. 51, C.S. Plot No.1202 (P), J.L. No. 32 at Mouza Ballavipore, Police Station Dhaneakhali, District Hooghly;

(f) Costs of and/or incidental to this application;

(g) To pass such other or further writ or writs and/or direction or directions and/or order or order as to this Hon'ble Court may deem fit and proper.

4. Learned Single Judge passed the impugned order dated 25.07.2025 in the said writ application and opined that Magistrate is best suited to examine the grievance of the writ petitioner.

5. Plain reading of the prayer before the Writ Court shows that petitioner has prayed for issuance of a Writ of Mandamus for registration of F.I.R. with further prayer to supervise the investigation in order to ensure that investigation takes place in a

proper way.

6. We are afraid that these reliefs cannot be granted in a writ petition. We have drawn the curtains on this aspect by considering several Supreme Court judgments recently in *Merjul Hoque Mondal vs. The State of West Bengal & Ors.*, WPA (P) 517 of 2022. The relevant portion reads thus:-

5. The main bone of contention of the writ petitioner is taking necessary action by registering First Information Report (FIR) against the private respondent No. 11 and 12 and to take necessary steps in accordance with law for arresting the culprits in respect of unequal distribution of ration goods and cards in the village of Kusbaria.

6. The point involved in this case is no more *res Integra*. The question cropped up before a Division Bench of the Hon'ble Supreme Court in the case of *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage & Ors.* Reported at (2016) 6 SCC 277 as to whether the remedy under Article 226 of the Constitution of India can be availed of if there exists inaction of Police in registering the FIR in relation to a cognizable offence. The Apex Court drawn the curtains on the said aspects in following words:

**2. This Court has held in *Sakiri Vasu v. State of U.P.*, that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an appointment under Section 156(3) CrPC is made and the Magistrate is, *prima facie*, satisfied, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the mater. We have said this in *Sakiri Vasu* 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 5 praying for a proper investigation.**

**(emphasis supplied)**

**7. Thereafter, a Division Bench of Madhya Pradesh High Court again dealt with this aspect by considering the Constitutional Bench judgment of Hon'ble Supreme Court in the case of:**

**Lalita Kumari v. Government of U.P. reported at (2014) 2 SCC 1 and in**

**Aleque Padamsee v. Union of India reported at (2007) 6 SCC 171**

**Sakiri Vasu v. State of U.P. reported at (2008) 2 SCC 409.**

**8. It is also held by the Hon'ble Apex Court in the case of *Pravasi Bhalai Sangathan Versus Union of India and Others* reported in (2014) 11 Supreme**

**Court Cases 477 observing that statutory provisions and particularly panel law provide sufficient remedy to curb the menace of "hate speeches" in the form of posts in twitter. Thus, person aggrieved must resort to the remedy provided under a particular statute.**

**9. After considering the above judgments, speaking for the Bench, Hemant Gupta, J. (as His Lordship then was) opined as follows:-**

**The Constitution Bench in Lalita Kumari (supra) was considering the question as to 6 whether registration of an FIR is mandatory, in case it discloses a cognizable offence. If the information does not disclose a cognizable offence, it mandates to conduct a preliminary enquiry. But, there is no mandate in the aforesaid judgment that his Court under Article 226 of the Constitution of India should issue a direction for registration of an FIR. Such a question has been specifically answered in Alege Padamsee (supra), Sakiri Vasu (supra) and Sudhir Bhaskar Rao Tambe (supra).**

**(Emphasis Supplied)**

**10. In view of the authoritative pronouncement of the Honble Supreme Court and the Division Bench of the Madhya Pradesh High Court on the above aspect, no writ of mandamus/direction can be issued for lodging of FIR. The petitioner has an efficacious remedy under the criminal law. Hence the PIL cannot be entertained.**

7. In the light of aforesaid legal position, no fault can be found in the order of learned Single Judge. Liberty is reserved to the appellant to avail the remedy available to him under the law.

8. With this aforesaid observation, appeal along with the connected applications stand disposed of.

9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.