



RESEARCH QUESTION

"What remedies does a person in India have when police refuse to register an FIR for a cognizable offence, including the Lalita Kumari guidelines, complaint to the Superintendent of Police, and applications to the Magistrate under the BNSS?"

Remedies in India Against Police Refusal to Register an FIR for a Cognizable Offence

TL;DR

If the police refuse to register a First Information Report (FIR) for a cognizable offence, the informant must systematically exhaust the hierarchical statutory remedies provided by law rather than directly invoking the High Court's extraordinary writ jurisdiction. The Gauhati High Court in *Md. Laskar Ali v. The State of Assam* (2025) established that this mandatory progression is fully preserved under the Bharatiya Nagarik Suraksha Sanhita (BNSS), where an aggrieved party must first submit a written representation to the Superintendent of Police under Section 173(4) of the BNSS and, if that fails, file an application before the jurisdictional Magistrate under Section 175(3) of the BNSS.

VERIFIED CASES	STATUTES	LATEST RULING
25	3	2025
24 High Courts · 1 SC		Gauhati High Court

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Mandatory registration of FIR for cognizable disclosures

If a complaint prima facie reveals the commission of a cognizable offence, the police have no discretion and must register an FIR immediately. This prevents officers from conducting unauthorized preliminary inquiries into the truthfulness or credibility of allegations before lodging the FIR, as highlighted in *Union of India v. State of Maharashtra* (2019).

02 Statutory recourse to the Superintendent of Police

Upon an officer's refusal to register an FIR, the informant's immediate statutory remedy is to send a written complaint to the concerned Superintendent of Police. This step, now codified under Section 173(4) of the BNSS, requires the Superintendent to either investigate or direct an investigation if satisfied that a cognizable offence is disclosed, as recognized in *Rekha Devi v. State of Jharkhand* (2025).

03 Magisterial intervention to compel investigation

If senior police officers fail to provide redress, the aggrieved person may apply to the jurisdictional Magistrate to direct the registration of an FIR and conduct of an investigation. This magisterial power, previously under Section 156(3) of the CrPC and now under Section 175(3) of the BNSS, serves as an essential check against police inaction, as reaffirmed in *Beni Mandal v. State of Bihar* (2025).

04 Magisterial discretion to proceed as a complaint case

The Magistrate is not mandatorily bound to order a police investigation and may instead choose to treat the application as a private criminal complaint. This allows the Magistrate, in the exercise of judicial discretion, to record the complainant's statement and examine witnesses under the complaint procedure, as illustrated in *Urmila Devi v. State of U.P.* (2024).

05 Inadmissibility of direct writ petitions for FIR registration

High Courts will not ordinarily entertain writ petitions under Article 226 of the Constitution or petitions under Section 482 of the CrPC to direct police to register an FIR when statutory remedies remain unexhausted. Aggrieved parties must first utilize the procedures before the Superintendent of Police and the Magistrate before invoking the High Court's extraordinary jurisdiction, as emphasized in *Vishwas Sudhanshu Bhamburkar v. State of Gujarat* (2022).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT
POSITION

The apex court has consistently ruled that the extraordinary jurisdiction under Article 226 or Section 482 of the CrPC cannot be used as a shortcut to bypass the statutory sequence of approaching the Superintendent of Police and the jurisdictional Magistrate (*Tarlochan Singh v. State of Punjab* (2009)). The Supreme Court has established that the correct course is filing a complaint before the Magistrate under the statutory framework, and direct writ petitions should not be entertained (*Kanubhai Shamajibhai Dayani v. State of Gujarat* (2007)).

HIGH COURT
VARIATIONS

While High Courts strictly relegate petitioners to statutory remedies, they maintain that in rare and exceptional cases, the High Court's inherent power can be invoked to direct registration of an FIR, though this is highly restricted (*Charanjit Kaur v. State of Punjab* (2010)). Some High Courts also direct senior police officials like the Deputy Superintendent of Police to review the complaint and pass a reasoned order if they choose not to register an FIR (*Anilbhai Mohanlal Joshi v. State of Gujarat* (2018)).

RECENT EVOLUTION

With the transition to the Bharatiya Nagarik Suraksha Sanhita (BNSS), recent High Court decisions from 2025 confirm that the established principles of mandatory registration and relegation to alternative remedies remain intact under Sections 173(4) and 175(3) of the BNSS (*Mrityunjay Mani Goswami v. The State of Bihar* (2025)).

UNSETTLED AREAS OR CAVEATS

Magisterial Discretion vs. Mandatory Investigation

Although *Lalita Kumari* mandates the registration of an FIR by the police, the Magistrate under Section 156(3) CrPC (now Section 175(3) BNSS) retains the judicial discretion to either direct an investigation or treat the application as a private complaint case, meaning magisterial intervention does not automatically guarantee a police-led investigation (*Unknown v. State of Uttar Pradesh* (2024)).

II. Statutory Provisions 3 PROVISIONS

SECTION 173, BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 — INFORMATION IN COGNIZABLE CASES

Mandates the recording of information regarding cognizable offences by the police officer in charge, including provisions for electronic recording, special procedures for women and disabled persons, and the supply of a free copy to the informant.

"173. Information in cognizable cases.—(1) Every information relating to the commission of a cognizable offence, irrespective of the area where the offence is committed, may be given orally or by electronic communication to an officer in charge of a police station, and if given— (i) orally, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it; (ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf." *Cited in: Mrityunjay Mani Goswami v. The State of Bihar, Beni Mandal v. State of Bihar, Md. Laskar Ali v. The State of Assam*

SECTION 175, BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 — POLICE OFFICER'S POWER TO INVESTIGATE COGNIZABLE CASE

Empowers police officers to investigate cognizable offences without a Magistrate's order, and authorizes the Magistrate to direct such an investigation upon receiving an application supported by an affidavit.

"Section 175. Police officer's power to investigate cognizable case\n\n(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIV:\n\n(3) Any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-section (4) of section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned." *Cited in: Md. Laskar Ali v. The State of Assam*

SECTION 31, RAJASTHAN POLICE ACT, 2007 — RECORDING OF INFORMATION IN COGNIZABLE CASES

Mandates the immediate recording of cognizable offence reports and details disciplinary actions against officers-in-charge who refuse to record such information when reported to the District Superintendent of Police.

"Section 31. Recording of information in cognizable cases\n\n(1) The officer in-charge of a police Station shall promptly received and record every information relating to the commission of a cognizable offence in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).\n\n(2) Where any person sends or gives information to the District Superintendent of police of the facts, which prima facie constitute a cognizable offence, and alleges that the officer in-charge of the Police Station having jurisdiction has refused to record the information, the District Superintendent of Police shall immediately proceed to take or cause to be taken disciplinary action as per rules against the officer in-charge of the Police Station." *Cited in:* Not directly cited in the analyzed cases

III. Cases Discussed 25 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>Binny Bawa v. State of Punjab</i> PHHC010565612012	HIGH COURT OF PUNJAB AND HARYANA	2012	Relegates police inaction grievances to SP under 154(3) and Magistrate under 156(3) CrPC.
02	<i>Tarlochan Singh v. State of Punjab</i> PHHC010499912009	HIGH COURT OF PUNJAB AND HARYANA	2009	High Court declines Section 482 petition, directing petitioner to approach Magistrate for FIR.
03	<i>Charanjit Kaur v. State of Punjab</i> PHHC010504392010	HIGH COURT OF PUNJAB AND HARYANA	2010	Confirms alternative remedies under CrPC must be exhausted before invoking High Court jurisdiction.
04	<i>Pardeep Kumar v. State of Punjab</i> PHHC010514612010	HIGH COURT OF PUNJAB AND HARYANA	2010	Mandates statutory complaint procedures before Magistrate instead of directly invoking Section 482.
05	<i>Sandeep Chopra v. State of Haryana</i> PHHC010447752010	HIGH COURT OF PUNJAB AND HARYANA	2010	Reaffirms that remedies under Section 156(3) must be pursued before seeking mandamus.
06	<i>Vishwas Sudhanshu Bhamburkar v. State of Gujarat</i> GJHC240236702021	HIGH COURT OF GUJARAT	2022	Bars direct writ petitions for FIR registration when alternative statutory remedies exist.
07	<i>Md. Laskar Ali v. The State of Assam</i> GAHC010007462025	GAUHATI HIGH COURT	2025	Confirms power under Section 156(3) CrPC is exercisable under Section 175(3) BNSS.
08	<i>Mrityunjay Mani Goswami v. The State of Bihar</i> BRHC010559022025	PATNA HIGH COURT	2025	Directs complainant to seek registration of FIR under BNSS statutory provisions.
09	<i>Beni Mandal v. State of Bihar</i> BRHC010841812024	PATNA HIGH COURT	2025	Dismisses criminal writ petition, directing petitioner to approach Magistrate under the BNSS.
10	<i>Abhishek Jain v. State of Chhattisgarh</i> CGHC010003712017	HIGH COURT OF CHHATTISGARH	2020	Clarifies that Lalita Kumari does not mandate High Courts to bypass alternative remedies.
11	<i>Kanubhai Shamajibhai Dayani v. State of Gujarat</i> GJHC240437102007	HIGH COURT OF GUJARAT	2007	Affirms private complaint before Magistrate is the proper remedy for FIR refusal.
12	<i>Anilbhai Mohanlal Joshi v. State of Gujarat</i> GJHC240518282018	HIGH COURT OF GUJARAT	2018	Directs police to review complaints under Supreme Court guidelines and decide on registration.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
13	<i>Govind Singh v. State of Chhattisgarh</i> CGHC010032332021	HIGH COURT OF CHHATTISGARH	2021	Rules that writ court cannot bypass statutory pathways under CrPC for FIR registration.
14	<i>Dhanalakshmi v. State of Telangana</i> HBHC010165912025	HIGH COURT FOR STATE OF TELANGANA	2025	Dismisses writ petition for registration of FIR, directing recourse to Magistrate or SP.
15	<i>Sanjay Singh Rathore v. State of Chhattisgarh</i> CGHC010066582021	HIGH COURT OF CHHATTISGARH	2021	Reaffirms that alternative remedies under Sections 154(3) and 156(3) bar writ jurisdiction.
16	<i>Praveen Kumar Katela v. State of Chhattisgarh</i> CGHC010105062009	HIGH COURT OF CHHATTISGARH	2009	Holds that the remedy for non-registration lies with the Magistrate under Section 200.
17	<i>I. Lakra v. Prakash Jeet Jha</i> CGHC010307822019	HIGH COURT OF CHHATTISGARH	2019	Summarizes Lalita Kumari guidelines and details mandatory procedures for cognizable complaints.
18	<i>Nalini Kumari v. State of Telangana</i> HBHC010135752020	HIGH COURT FOR STATE OF TELANGANA	2025	Dictates that writ of mandamus cannot compel registration when statutory channels remain unexhausted.
19	<i>Puli Naveen Kumar v. State of Telangana</i> HBHC010217422025	HIGH COURT FOR STATE OF TELANGANA	2025	Mandates exhausting statutory recourse under CrPC/BNSS instead of filing direct writ petitions.
20	<i>Unknown v. State of Uttar Pradesh</i> UPHC020491682024	ALLAHABAD HIGH COURT	2024	Explains that Magistrate has discretion under 156(3) CrPC to direct investigation or complaint.
21	<i>Maddineri Rajesh v. State of Telangana</i> HBHC010178672025	HIGH COURT FOR STATE OF TELANGANA	2025	Holds that direct mandamus is barred; parties must file complaints under BNSS/CrPC.
22	<i>Union of India v. State of Maharashtra</i> ESCR010001392019	SUPREME COURT OF INDIA	2019	Reaffirms mandatory registration of FIR for cognizable offences under the Lalita Kumari rules.
23	<i>Rekha Devi v. State of Jharkhand</i> JHHC010401562023	HIGH COURT OF JHARKHAND	2025	Confirms alternative statutory remedies must be availed under BNSS before filing writ.
24	<i>Aditya Sanjay Agrawal v. State of Gujarat</i> GJHC240005632021	HIGH COURT OF GUJARAT	2021	Rules that Lalita Kumari does not permit direct writ petition bypassing Section 156(3).
25	<i>Urmila Devi v. State of U.P.</i> UPHC020566692024	ALLAHABAD HIGH COURT	2024	Confirms Magistrate's judicial discretion under Section 156(3) to refuse ordering police investigation.

IV. Case Details 25 CASE FILES

01 Binny Bawa v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2012-07-24 • CRM-M/8258/2012

The petitioner sought a direction from the High Court under Section 482 of the Code of Criminal Procedure to compel the police to register an FIR regarding allegations of cheating, forgery, and criminal intimidation. The petitioner claimed that private respondents coerced her into signing sale deeds and subsequently extorted money from her under threat of violence.

HELD The High Court held that the appropriate recourse for an aggrieved person when police fail to register an FIR is to approach the Superintendent of Police under Section 154(3) CrPC or the Magistrate under Section 156(3) or Section 190 read with Section 200 CrPC. It clarified that a petition under Section 482 CrPC seeking directions for registration should only be entertained in rare and exceptional circumstances.

“In case the Police officials fail to do so, the modalities to be adopted are set out in Section 190 read with Section 200 CrPC. Therefore, if a person is aggrieved by the inaction of Police officials in not registering an FIR, the modalities contained in Section 190 read with Section 200 CrPC are to be adopted and followed. In *Sakiri Vasu v. State of UP and others*, 2008 (1) RCR (CrL.) 392 (SC) it has been observed by the Hon'ble Supreme Court that if a person has a grievance that the Police authorities are not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not lead to any satisfactory result in the sense that either the FIR is not registered or even after registering it no proper investigation is held, it is open to the aggrieved person to file such application under Section 156(3) CrPC CRM M-8258 of 2012 4 before the learned Magistrate concerned. If such an application under Section 156(3) CrPC is filed before the Magistrate, the Magistrate can direct the FIR to be registered and can also direct proper investigation to be made in a case where, according to the aggrieved person, no proper investigation was made.”

HIGH COURT OF PUNJAB AND HARYANA • 2012

SOURCE PHHC010565612012

02 Tarlochan Singh v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2009-03-27 • CRM-M/8556/2009

The petitioners sought a direction from the High Court under Section 482 of the Code of Criminal Procedure to compel the police to register a criminal case against private respondents regarding an alleged assault. The court observed that the petitioners have alternative legal remedies available under Sections 154(3), 156(3), and 200 of the Cr.P.C. to approach a Magistrate if the police fail to register an FIR. Relying on established precedents, the court declined to exercise its power under Section 482 in this instance, stating that such intervention is reserved for rare and exceptional cases. The petition was consequently disposed of, leaving the petitioners to pursue their remedies before the appropriate Magistrate.

HELD The Court ruled that alternative statutory remedies are available under Sections 154(3) and 156(3) of the CrPC to address police inaction. It held that High Courts should discourage filing petitions under Section 482 CrPC for directing FIR registration, reserving such interventions for rare and exceptional circumstances.

“In case the Police officials failed to do so, the modalities to be adopted are set out in Section 190 read with Section 200 Cr.P.C. Therefore, if a person is aggrieved by the inaction of the Police officials in registering the FIR, the modalities contained in Section 190 read with Section 200 Cr.P.C are to be adopted and followed. In *Sakiri Vasu v. State of U.P. and others*, 2008 (1) RCR (Cr.) 392 (SC) it was observed by the Supreme Court that if a person has a grievance that the police station is not registering his FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by an application in writing. Even if that does not lead to any satisfactory result in the sense that either the FIR is not registered or even after registering it no proper investigation is held, it is open to the aggrieved person to file such application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned.”

HIGH COURT OF PUNJAB AND HARYANA • 2009

SOURCE PHHC010499912009

03 Charanjit Kaur v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2010-03-03 • CRM-M/6200/2010

The petitioner sought a direction from the High Court under Section 482 of the Code of Criminal Procedure to compel the police to register an FIR regarding allegations of fraudulent land transfers and bigamy. The petitioner claimed that her complaint to the police remained unaddressed. The Court dismissed the petition, citing established legal precedents. It held that when the police fail to register a FIR for a cognizable offense, the appropriate remedy for an aggrieved person is to approach the concerned Magistrate under Section 156(3) of the CrPC. The Court clarified that exercising inherent powers under Section 482 for this purpose is reserved only for rare and exceptional cases, and thus granted the petitioner liberty to pursue available statutory remedies.

HELD The High Court held that when an individual is aggrieved by the non-registration of an FIR, they must pursue statutory modalities under Section 154(3) and Section 156(3) CrPC. The Court declined to exercise its inherent jurisdiction under Section 482 CrPC, stating that such directions should only be issued in exceptional situations.

“If such an application under Section 156(3) Cr.P.C. is filed before the Magistrate, the Magistrate can direct the FIR to be registered and can also direct proper investigation to be made in a case where, according to the aggrieved person, no proper investigation was made. However, a petition under Section 482 Cr.P.C. for directing the registration of a FIR is to be done only in some rare and some exceptional cases. In the present case, the petitioner has her remedy of approaching the Magistrate in case there is any inaction on the part of the Police in not registering the FIR.”

HIGH COURT OF PUNJAB AND HARYANA • 2010

SOURCE PHHC010504392010

04 Pardeep Kumar v. State of Punjab

HIGH COURT OF PUNJAB AND HARYANA • 2010-03-10 • CRM-M/7153/2010

The petitioner filed a petition under Section 482 of the Code of Criminal Procedure seeking action against police officers for his alleged illegal detention and requesting protection from private respondents involved in a civil and criminal dispute with his firm. The court declined to issue directions for the registration of an FIR, noting that the High Court's inherent jurisdiction should not be invoked for such purposes as a matter of course. Relying on established Supreme Court precedents, the court held that the petitioner must follow the statutory modalities under Section 190, 200, and 156(3) of the Cr.P.C. by approaching the Magistrate, rather than bypassing these channels through a petition under Section 482.

HELD The Court reaffirmed that the proper procedure to address police refusal is to approach the Superintendent of Police under Section 154(3) CrPC or the Magistrate under Section 156(3) CrPC. It held that petitions under Section 482 CrPC should not be routinely entertained for such grievances.

“In Sakiri Vasu v. State of U.P. and others, 2008 (1) RCR (Cr.) 392 (SC), it was observed by the Supreme Court that if a person has a grievance that the Police station is not registering his FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by an application in writing. Even if that does not lead to any satisfactory result in the sense that either the FIR is not registered or even after registering it no proper investigation is held, it is open to the aggrieved person to file such application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned.”

HIGH COURT OF PUNJAB AND HARYANA • 2010

SOURCE PHHC010514612010

05 Sandeep Chopra v. State of Haryana

HIGH COURT OF PUNJAB AND HARYANA • 2010-12-06 • CRM-M/35608/2010

The petitioner sought a direction from the High Court under Section 482 of the Code of Criminal Procedure for the police to register a First Information Report (FIR) regarding an alleged robbery of cheques. The court declined to issue such a direction, holding that it should not exercise its inherent jurisdiction for this purpose when other legal remedies are available. Citing Supreme Court precedents, the court ruled that the petitioner must instead follow the established procedure of approaching the Superintendent of Police or filing an application before the Magistrate under Section 156(3) of the CrPC if the police fail to act.

HELD The Court ruled that the petitioner had alternative legal remedies of approaching the Superintendent of Police under Section 154(3) CrPC and the Magistrate under Section 156(3) CrPC. Directing the registration of an FIR under Section 482 CrPC is restricted only to rare and exceptional circumstances.

“If such an application under Section 156(3) CrPC is filed before the Magistrate, the Magistrate can direct the FIR to be registered and can also direct proper investigation to be made in a case where, CrI. Misc. No. M-35608 of 2010 [4] according to the aggrieved person, no proper investigation was made. However, a petition under Section 482 CrPC for directing the registration of a FIR is to be done only in some rare and some exceptional cases. In the present case, the petitioner has his remedy of approaching the Magistrate in case there is inaction on the part of the Police in not registering a FIR.”

HIGH COURT OF PUNJAB AND HARYANA • 2010

SOURCE PHHC010447752010

06 Vishwas Sudhanshu Bhamburkar v. State of Gujarat

HIGH COURT OF GUJARAT • 2022-09-19 • SCRA/5144/2021

The petitioner filed a writ petition seeking a direction from the High Court to compel the police to register an FIR based on allegations of forgery and cheating involving construction projects near the Surat Airport. The petitioner argued that the police failed to act despite the existence of evidence disclosing a cognizable offense, citing the mandate set forth in *Lalita Kumari*. \n\nThe court dismissed the petition as not maintainable, ruling that the High Court should not act as the primary forum for such grievances. Relying on established Supreme Court precedents, the court held that the petitioner must first exhaust alternative remedies under the Code of Criminal Procedure, specifically by approaching the Superintendent of Police or filing a complaint before the Magistrate under Section 156(3).

HELD The High Court ruled that while an alternative remedy is not an absolute bar to a writ petition, the court should not ordinarily interfere when an aggrieved person has statutory options. Complainants must first approach the SP under Section 154(3) and, if unsuccessful, approach the Magistrate under Section 156(3) or file a complaint under Section 200 CrPC.

“We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters, and relegate the petitioner to his alternating remedy, firstly under Section 154(3) and Section 36 Cr.P.C. before the concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under Section 156(3)”

HIGH COURT OF GUJARAT • 2022

SOURCE GJHC240236702021

07 Md. Laskar Ali v. The State of Assam

GAUHATI HIGH COURT • 2025-01-28 • WP(C)/407/2025

The petitioner sought a writ to compel the police to register an FIR regarding the suspicious death of his minor grandson, whose body was found on railway tracks with various injuries. The petitioner had previously approached both the local police station and the Superintendent of Police without success.\n\nApplying established Supreme Court precedents, the Gauhati High Court dismissed the writ petition. The Court held that when police fail to register an FIR or conduct a proper investigation, the appropriate legal remedy is to approach the jurisdictional Magistrate under Section 156(3) of the CrPC (now corresponding to the Bharatiya Nagarik

Suraksha Sanhita). Consequently, the Court declined to entertain the writ petition and relegated the petitioner to his alternative statutory remedies.

HELD The Gauhati High Court held that the powers previously exercised by Magistrates under Section 156(3) CrPC are fully exercisable under Section 175(3) of the BNSS. Informants aggrieved by non-registration of an FIR must approach the Superintendent of Police under Section 173(4) of the BNSS first, and subsequently the jurisdictional Magistrate under Section 175(3) of the BNSS.

“Sub-section [4] of Section 173 of the BNSS has provided that any person aggrieved by a refusal on the part of an Officer In-Charge of a Police Station to record the information referred to in sub-section [1], may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who... failing which such aggrieved person may make an application to the Magistrate. 12. Having regard to the provisions contained in Section 156[3], CrPC and Section 175[3], BNSS and the observations made in the decisions mentioned above, this Court finds that the power used to be exercised by the Magistrates earlier under Section 156[3], CrPC is also exercisable under Section 175[3], BNSS.”

GAUHATI HIGH COURT • 2025

SOURCE GAHC010007462025

08 Mrityunjay Mani Goswami v. The State of Bihar

PATNA HIGH COURT • 2025-06-24 • CR. WJC/1196/2025

The petitioner filed a criminal writ petition seeking a court direction to police authorities for the registration of an FIR against several individuals, including police personnel. The Patna High Court declined to entertain the request, citing established Supreme Court precedents which discourage filing writ petitions for the registration of an FIR when alternative legal remedies are available. The Court observed that under the Code of Criminal Procedure and the Bharatiya Nagarik Suraksha Sanhita, the petitioner should instead approach the concerned Magistrate or file a criminal complaint. Consequently, the Court dismissed the petition, granting the petitioner liberty to pursue these alternative statutory remedies for redressal of their grievances.

HELD The Patna High Court ruled that if an FIR is not registered due to police inaction, writ jurisdiction should not be exercised. The petitioner is entitled to seek alternative statutory remedies under Section 190 and Section 200 of the CrPC, which correspond to Section 210 and Section 223 of the BNSS, 2023.

“If the F.I.R is not registered on account of inaction on the part of the police officials or the actions not to the satisfaction of the petitioner, then the efficacious alternative remedy is available to the petitioner under sections 190, 200 of the Cr.P.C (sections 210, 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023) or other statutory provisions under law.”

PATNA HIGH COURT • 2025

SOURCE BRHC010559022025

09 Beni Mandal v. State of Bihar

PATNA HIGH COURT • 2025-07-08 • CR. WJC/1810/2024

The petitioner filed a criminal writ petition seeking a court direction to police authorities to register an FIR regarding the suspicious death of his son. The Patna High Court declined to entertain the petition, noting that the Supreme Court has consistently discouraged the use of writ petitions to compel police action. The court directed the petitioner to pursue alternative remedies available under the Code of Criminal Procedure or the Bharatiya Nagarik Suraksha Sanhita, specifically by approaching the jurisdictional Magistrate or filing a criminal complaint, rather than seeking relief through a writ of mandamus.

HELD The Court dismissed the criminal writ petition, reiterating that a petitioner has an efficacious alternative remedy under Section 210 and Section 223 of the BNSS (corresponding to Section 190 and 200 of the CrPC) to register an FIR and proceed with the matter.

“If the F.I.R is not registered on account of inaction on the part of the police officials or the actions not to the satisfaction of the petitioner, then the efficacious alternative remedy is available to the petitioner under sections 190, 200 of the Cr.P.C (sections 210, 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023) or other statutory provisions under law.”

PATNA HIGH COURT • 2025

SOURCE BRHC010841812024

10 Abhishek Jain v. State of Chhattisgarh

HIGH COURT OF CHHATTISGARH • 2020-12-02 • WPCR/155/2017

The petitioner filed a writ petition seeking a writ of mandamus to compel police authorities to register an FIR and initiate an investigation against certain individuals for alleged cognizable offenses. The High Court dismissed the petition, citing settled law that parties must first exhaust statutory remedies under the Code of Criminal Procedure, such as approaching the Superintendent of Police or filing a complaint before a Magistrate under Section 156(3) or Section 200. The Court emphasized that it should not encourage the practice of bypassing these alternative legal forums by directly approaching the High Court for the registration of FIRs.

HELD The High Court held that a writ of mandamus to compel police to perform their statutory duty under Section 154 CrPC can be denied on the ground of alternative remedies under Sections 154(3), 156(3), 190, and 200 of the CrPC. It clarified that the *Lalita Kumari* ruling does not mandate that a writ court must issue a direction for registration of an FIR without exhausting statutory alternatives.

“The verdict of Apex Court in the case of *Lalita Kumari v. 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 Sections 154(3), 156(3), 190 and 200 Cr.P.C.”

HIGH COURT OF CHHATTISGARH • 2020

SOURCE CGHC010003712017

11 Kanubhai Shamajibhai Dayani v. State of Gujarat

HIGH COURT OF GUJARAT • 2007-07-25 • SCR.A/588/2007

The petitioners sought a writ of mandamus to compel police authorities to register an FIR regarding allegations of land fraud and forgery. The dispute centered on competing sale deeds for the same parcel of land, which were already the subject of multiple ongoing civil suits. The court examined whether it should intervene to direct the registration of an FIR under Article 226 of the Constitution of India. Relying on Supreme Court precedents, including *Aleque Padamsee v. Union of India*, the court held that when police fail to register a cognizable complaint, the appropriate remedy is not to approach the High Court, but to file a private complaint before the jurisdictional Magistrate under Section 190 read with Section 200 of the Criminal Procedure Code. Consequently, the petition was dismissed, relegating the petitioners to the alternative legal remedy available before the Magistrate.

HELD The Court ruled that when police officials fail to register an FIR, the proper remedy is to file a complaint before the Magistrate under Section 190 read with Section 200 CrPC. If the Magistrate finds a prima facie case after recording evidence, they can direct police to investigate under Chapter XII of the Code.

“When the information is laid with the police, but no action in that behalf is taken, the complainant can under Section 190 read with Section 200 of the Code lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to enquire 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 police concerned to investigate into offence under Chapter XII of the Code”

HIGH COURT OF GUJARAT • 2007

SOURCE GJHC240437102007

12 Anilbhai Mohanlal Joshi v. State of Gujarat

HIGH COURT OF GUJARAT • 2018-09-14 • SCR.A/7722/2018

The petitioner filed a writ petition seeking directions for the police to register an FIR based on his written complaints regarding alleged criminal offenses. During the proceedings, the petitioner's counsel acknowledged that previous attempts to report the matter were insufficient. The Gujarat High Court disposed of the petition by directing the petitioner to approach the local Deputy Superintendent of Police with the necessary details. The court instructed the police to review the complaint in accordance with established Supreme Court guidelines on FIR registration. If a cognizable offense is disclosed, an FIR must be registered; otherwise, the police must provide the petitioner with a reasoned explanation for the refusal within four weeks.

HELD The Court disposed of the petition by granting liberty to the applicant to approach the local police or Deputy Superintendent of Police, while clarifying that if the police still refuse to register the FIR, the applicant is open to availing remedies under Section 200 CrPC.

“For any reason, if the police authorities refuse to register the FIR, it shall be open for the applicant to avail of the remedy under Section 200 of the Code of Criminal Procedure.”

HIGH COURT OF GUJARAT • 2018

SOURCE GJHC240518282018

13 Govind Singh v. State of Chhattisgarh

HIGH COURT OF CHHATTISGARH • 2021-02-08 • WPCR/89/2021

The petitioner filed a writ petition seeking a writ of mandamus to compel the police to register an FIR regarding his complaint of cognizable offences against a respondent. The High Court, relying on established Supreme Court precedents such as *Sakiri Vasu* and *Aleque Padamsee*, held that it should not entertain such writ petitions when alternative statutory remedies are available. The Court clarified that the petitioner must first exhaust remedies under Sections 154(3), 156(3), or 200 of the CrPC by approaching the relevant police officials or the Magistrate. Consequently, the Court dismissed the petition in limine, granting the petitioner liberty to pursue these alternative legal avenues.

HELD The Chhattisgarh High Court observed that a writ of mandamus should not be issued to compel the registration of an FIR if the alternative remedies under Sections 154(3), 156(3), 190, and 200 of the CrPC have not been availed. It reiterated that the *Lalita Kumari* judgment does not mandate the issuance of writs of mandamus for registration of FIRs.

“The verdict of Apex Court in the case of *Lalita Kumari v. 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 Sections 154(3), 156(3), 190 and 200 Cr.P.C.”

HIGH COURT OF CHHATTISGARH • 2021

SOURCE CGHC010032332021

14 Dhanalakshmi v. State of Telangana

HIGH COURT FOR STATE OF TELANGANA • 2025-03-20 • WP/8439/2025

The petitioner filed a writ petition seeking a writ of mandamus to compel police authorities to register an FIR based on her complaint against the unofficial respondent. The court noted that the petitioner had not exhausted the alternative remedies available under the Code of Criminal Procedure or the Bharatiya Nagarik Suraksha Sanhita, such as approaching the Superintendent of Police or filing a private complaint before a Magistrate. Following its earlier common order in related matters, the High Court held that a writ petition is not maintainable for directing the registration of an FIR when statutory remedies remain unexhausted. The court dismissed the request to issue such a direction, clarifying that the petitioner is free to pursue appropriate legal remedies before the concerned Magistrate.

HELD The High Court held that a writ of mandamus cannot be issued directing police authorities to register an FIR when statutory remedies remain unexhausted. Complainants must first approach the SP, and if they refuse, file a private complaint before the Magistrate, who can then direct an investigation under the CrPC/BNSS.

“This Court... having regard to the provisions of the Cr.P.C., had held that in the event of the Station House Officer not registering the crime basing on the complaint made, the complainant has to avail the remedy of approaching the Superintendent of Police (for short SP), and in the event of the authorities, be it the SHO or the SP, refusing to receive the complaint by registering a FIR and undertaking investigation, the complainant has the further remedy of approaching the concerned Magistrate Court by filing a private complaint; and that on the Court being prima facie satisfied of the contents of the complaint disclosing commission of a cognizable offence, the Magistrate in exercise of powers conferred under the Cr.P.C./BNSS can direct the officer-in-charge of the police station to conduct investigation and submit a report.”

HIGH COURT FOR STATE OF TELANGANA • 2025

SOURCE HBHC010165912025

15 Sanjay Singh Rathore v. State of Chhattisgarh

HIGH COURT OF CHHATTISGARH • 2021-03-18 • WPCR/202/2021

The petitioner filed a writ petition seeking a writ of mandamus to direct police authorities to register an FIR based on his complaint regarding the commission of cognizable offenses. The High Court dismissed the petition, ruling that it should not be entertained directly. Relying on established Supreme Court precedents, the Court held that the petitioner has efficacious alternative statutory remedies available under Sections 154(3), 156(3), and 200 of the Code of Criminal Procedure. The Court concluded that the petitioner must first exhaust these remedies before the Magistrate or police authorities rather than rushing to the High Court.

HELD The Chhattisgarh High Court confirmed that a writ of mandamus cannot be issued to bypass statutory channels under Sections 154(3), 156(3), 190, and 200 of the CrPC. The *Lalita Kumari* judgment does not mandate that High Courts issue writs for FIR registration without alternative remedy exhaustion.

“The verdict of Apex Court in the case of *Lalita Kumari v. 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 Sections 154(3), 156(3), 190 and 200 Cr.P.C.”

HIGH COURT OF CHHATTISGARH • 2021

SOURCE CGHC010066582021

16 Praveen Kumar Katela v. State of Chhattisgarh

HIGH COURT OF CHHATTISGARH • 2009-08-24 • WPCR/4586/2009

The petitioner sought a writ of mandamus from the High Court to compel the police to register an FIR based on a complaint regarding an allegedly fraudulent land transaction. The petitioner argued that local authorities failed to act despite an inquiry report and his subsequent requests to senior police officials. The High Court dismissed the petition, citing settled legal precedents from the Supreme Court. The court held that when police fail to register an FIR, the appropriate legal recourse is not to file a writ petition under Article 226, but to approach the Magistrate under Section 156(3) or Section 200 of the Code of Criminal Procedure. Consequently, the petition was dismissed, granting the petitioner liberty to pursue these alternative statutory remedies.

HELD The High Court dismissed the writ petition, holding that if any person is aggrieved by police inaction in registering an FIR, the modalities contained in Section 190 read with Section 200 of the Code of Criminal Procedure must be adopted and followed.

“The correct position in law, therefore, is that the police officials ought to register the FIR whenever facts brought to their 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 Section 190 read with Section 200 of the Code.”

HIGH COURT OF CHHATTISGARH • 2009

SOURCE CGHC010105062009

17 I. Lakra v. Prakash Jeet Jha

HIGH COURT OF CHHATTISGARH • 2019-11-05 • WPCR/912/2019

The petitioner filed a writ petition seeking a direction from the High Court to mandate the police to register an FIR regarding alleged cognizable offenses. The High Court dismissed the petition in limine, noting that the petitioner has efficacious alternative statutory remedies. Citing established Supreme Court precedents, the Court held that when police fail to register an FIR, an aggrieved person must first approach the Superintendent of Police under Section 154(3) of the CrPC and, if that fails, seek redress before a Magistrate under Section 156(3) or Section 200 of the CrPC. The Court emphasized that it should not be flooded with writ petitions for FIR registration when these statutory channels are available.

HELD The High Court noted that registration of an FIR is mandatory under Section 154 if a cognizable offence is disclosed. However, if police decline to register, the proper course is to approach the Judicial Magistrate under Section 156(3) CrPC or Section 154(3) rather than approaching the High Court for a writ of mandamus.

“Registration of FIR is mandatory under section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation... if a person is aggrieved that his FIR has not been registered by the police or having been registered, proper investigation is not done, the remedy available to the aggrieved person lies to approach the Judicial Magistrate under Section 156(3) of the CrPC”

HIGH COURT OF CHHATTISGARH • 2019

SOURCE CGHC010307822019

18 Nalini Kumari v. State of Telangana

HIGH COURT FOR STATE OF TELANGANA • 2025-04-29 • WP/7427/2020

The petitioner filed a writ petition seeking a writ of mandamus to compel the police to register an FIR based on a complaint. The High Court, relying on established legal precedents including decisions by the Supreme Court of India, held that a writ of mandamus cannot be issued to direct police authorities to register an FIR. The court observed that the petitioner failed to exhaust the statutory alternate remedies available under the Criminal Procedure Code or the Bharatiya Nagarik Suraksha Sanhita, which include approaching the Superintendent of

Police or filing a private complaint before the jurisdictional Magistrate. Consequently, the court dismissed the petition, granting the petitioner liberty to pursue these appropriate legal remedies.

HELD The High Court held that a writ of mandamus cannot be issued directing authorities to register an FIR even if the complaint indicates the commission of an offence. Complainants must exhaust their statutory remedies of approaching the SP first and then filing a private complaint before the Magistrate under the CrPC or BNSS.

“This Court... having regard to the provisions of the Cr.P.C., had held that in the event of the Station House Officer not registering the crime basing on the complaint made, the complainant has to avail the remedy of approaching the Superintendent of Police (for short SP), and in the event of the authorities, be it the SHO or the SP, refusing to receive the complaint by registering a FIR and undertaking investigation, the complainant has the further remedy of approaching the concerned Magistrate Court by filing a private complaint”

HIGH COURT FOR STATE OF TELANGANA • 2025

SOURCE HBHC010135752020

19 Puli Naveen Kumar v. State of Telangana

HIGH COURT FOR STATE OF TELANGANA • 2025-04-10 • WP/10817/2025

The petitioner filed a writ petition seeking a writ of mandamus to compel police authorities to register an FIR based on his complaint. The petitioner contended that the inaction of the police was illegal and arbitrary.

The High Court, relying on established precedents including Supreme Court rulings, held that a writ of mandamus cannot be issued to direct the registration of an FIR. The court emphasized that the petitioner must exhaust alternative remedies, such as approaching the Superintendent of Police or filing a private complaint before the concerned Magistrate under the Criminal Procedure Code or the Bharatiya Nagarik Suraksha Sanhita. Consequently, the court disposed of the petition without issuing the requested direction, granting the petitioner liberty to pursue these alternative legal remedies.

HELD The High Court held that a writ of mandamus to register a crime cannot be issued, and the aggrieved party must avail alternative statutory remedies. It noted that the procedures under the CrPC and BNSS provide robust safety measures to ensure the registration and investigation of complaints.

“This Court, in W.P.No.8189 and 12691 of 2020, dt.37.Ot.2024, having regard to the provisions of the Cr.p.C., had held that in the event of the Station House Officer not registering the crime basing on the complaint made, the complainant has to avail the remedy of approaching the Superintendent of police (for short ,Sp,), and in the event of the authorities, be it the SHO or the Sp, refusing to receive the complaint by registering a FIR and undertaking investigation, the complainant has the further remedy of approaching the concerned Magistrate Court by filing a private complaint”

HIGH COURT FOR STATE OF TELANGANA • 2025

SOURCE HBHC010217422025

20 Unknown v. State of Uttar Pradesh

ALLAHABAD HIGH COURT • 2024-07-25 • /6508/2024

The applicant sought to challenge the rejection of an application filed under Section 156(3) of the Code of Criminal Procedure, which had requested a police investigation into alleged offenses. The lower court and the Revisional Court had previously declined to direct an investigation, viewing the applicant's plea as a counter-blast to criminal proceedings already initiated against him under the NDPS Act. The court held that a Magistrate is not mandatorily bound to order a police investigation in every case where a cognizable offense is alleged. Instead, the Magistrate may exercise judicial discretion to either direct an investigation or treat the application as a formal complaint case under Chapter XV of the CrPC, provided that decision is made judiciously.

HELD The Court ruled that police officers have no discretion to decline to register an FIR when the complaint discloses a cognizable offence. However, a Magistrate exercising power under Section 156(3) CrPC has judicial discretion and is not mandatorily bound to order a police investigation; the Magistrate can instead direct the complainant to examine witnesses under Sections 200 and 202.

“Whether or not the offence complained of is made out is to be determined at the stage of investigation and/or trial... However, it is not open to them to decline to register an FIR. The law in this regard is clear — police officers cannot exercise any discretion when they receive a complaint which discloses the commission of a cognizable offence. Second, we deal with the issue of the discretion granted to a Magistrate vis-à-vis the exercise of powers under Section 156(3)CrPC. On this issue, the High Court has held that the JMFC was not under an obligation to direct the police to register the FIR and the use of the expression “may” in Section 156(3)CrPC indicated that the JMFC had the discretion to direct the complainant to examine witnesses under Sections 200 and 202CrPC, instead of directing an investigation under Section 156(3).”

ALLAHABAD HIGH COURT • 2024

SOURCE UPHC020491682024

21 Maddineri Rajesh v. State of Telangana

HIGH COURT FOR STATE OF TELANGANA • 2025-03-25 • WP/8952/2025

The petitioner sought a writ of mandamus to compel police authorities to register an FIR based on his complaints against private individuals. The court, relying on established legal principles and its own previous common order in a related batch of cases, held that a writ of mandamus cannot be issued to direct the registration of an FIR. The court emphasized that the petitioner must first exhaust alternative legal remedies, such as approaching the Superintendent of Police or filing a private complaint before the concerned Magistrate under the relevant criminal procedure laws. Consequently, the court disposed of the petition, granting the petitioner liberty to pursue these alternative remedies rather than invoking the court's extraordinary jurisdiction.

HELD The High Court held that a writ of mandamus cannot be issued to direct police authorities to register an FIR, and that complainants must first exhaust alternative remedies, such as approaching the Superintendent of Police or filing a private complaint before the Magistrate.

“This Court, in W.P.No.8189 and 12691 of 2020, dt.31.01.2024, having regard to the provisions of the Cr.P.C., had held that in the event of the Station House Officer not registering the crime basing on the complaint made, the complainant has to avail the remedy of approaching the Superintendent of Police (for short 'SP'), and in the event of the authorities, be it the SHO or the SP, refusing to receive the complaint by registering a FIR and undertaking investigation, the complainant has the further remedy of approaching the concerned Magistrate Court by filing a private complaint”

HIGH COURT FOR STATE OF TELANGANA • 2025

SOURCE HBHC010178672025

22 Union of India v. State of Maharashtra

SUPREME COURT OF INDIA • 2019-10-01 • 2019 INSC 1102

This case involved a review of the Supreme Court's earlier guidelines that mandated prior approval before arresting public servants accused under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and required a preliminary inquiry by a Deputy Superintendent of Police to screen for frivolous complaints. The Supreme Court recalled these directions, holding that they encroached upon the legislative field and undermined the constitutional objective of protective discrimination for marginalized communities. The Court emphasized that crimes under the Act are cognizable, and subjecting victims from these groups to additional procedural hurdles—when others receive immediate police action—violated principles of equality and the intent of the Act.

HELD The Supreme Court held that the provisions of Section 154(1) CrPC do not permit police officers to conduct a preliminary inquiry before registering an FIR when information discloses a cognizable offence. If they refuse, the aggrieved person can send the substance of information in writing and by post to the Superintendent of Police under Section 154(3).

“In case, an officer in charge of a police station refuses to exercise the jurisdiction vested in him and to register a case on the information of a cognizable offence reported and thereby violates the statutory duty cast upon him, the person aggrieved by such refusal can send the substance of the information in writing and by post to the Superintendent of Police concerned who if satisfied that the information forwarded to him discloses a cognizable offence, should either investigate the case himself or direct an investigation to be made by any police officer subordinate to him in the manner provided by sub-section (3) of Section 154 of the Code.”

SUPREME COURT OF INDIA • 2019

SOURCE ESCR010001392019

23 Rekha Devi v. State of Jharkhand

HIGH COURT OF JHARKHAND • 2025-04-28 • W.P.(CR.)/1061/2023

The petitioner filed a criminal writ petition under Article 226 of the Constitution, alleging that police officials failed to register an FIR despite receiving a complaint and approaching the Superintendent of Police. The court observed that the petitioner had a statutory remedy available under the Bharatiya Nagarik Suraksha Sanhita (BNSS) that had not been exhausted. Consequently, the court declined to entertain the petition and disposed of

the matter, granting the petitioner liberty to seek appropriate relief through the statutory channels provided under the BNSS.

HELD The Jharkhand High Court ruled that a criminal writ under Article 226 of the Constitution cannot be entertained when an alternative statutory remedy is available under the BNSS for non-registration of an FIR. The petitioner was granted liberty to approach the appropriate Court seeking relief under the BNSS.

"The fact also which needs to be noted is that if an FIR is not being registered, there is statutory remedy in BNSS. The petitioner has not availed the said remedy, rather has approached this Court by filing with criminal writ under Article 226 of the Constitution."

HIGH COURT OF JHARKHAND • 2025

SOURCE JHHC010401562023

24 Aditya Sanjay Agrawal v. State of Gujarat

HIGH COURT OF GUJARAT • 2021-01-29 • SCRA/331/2021

The petitioner sought a writ of mandamus from the High Court to compel the local police to register an FIR based on his written complaint alleging cognizable offenses. The petitioner argued that registration is mandatory under the Supreme Court's ruling in Lalita Kumari. The High Court rejected the petition, citing settled law that when police fail to register an FIR, the aggrieved party must first exhaust alternative remedies by approaching the Magistrate under Section 156(3) of the Code of Criminal Procedure. The Court held that the extraordinary jurisdiction under Article 226 of the Constitution should not be invoked for this purpose when a statutory remedy is available.

HELD The Court ruled that when a complaint discloses the commission of a cognizable offence, the police must register an FIR under Section 154. However, if the police fail to register, the complainant's remedy is to approach the SP under Section 154(3) or the Magistrate under Section 156(3) rather than approaching the High Court.

"Hon'ble Supreme Court held as under:- '11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned.'"

HIGH COURT OF GUJARAT • 2021

SOURCE GJHC240005632021

25 Urmila Devi v. State of U.P.

ALLAHABAD HIGH COURT • 2024-08-22 • /7316/2024

The applicant filed an application under Section 156(3) of the Cr.P.C. against her daughter, alleging assault. The trial court initially directed a preliminary enquiry, but subsequently rejected the application due to a lack of

medical evidence and the absence of a credible basis for the allegations, noting the existing family disputes. The High Court reviewed the matter, reiterating that a Magistrate exercises judicial discretion in Section 156(3) applications and is not bound to order a police investigation if the allegations do not appear genuine or reasonable. Finding no error in the Magistrate's discretionary order, the High Court upheld the rejection.

HELD The Court held that police officers have no discretion to decline to register an FIR when the complaint discloses a cognizable offence. However, a Magistrate exercising power under Section 156(3) CrPC has judicial discretion and is not mandatorily bound to order a police investigation; the Magistrate can instead direct the complainant to examine witnesses under Sections 200 and 202.

"Whether or not the offence complained of is made out is to be determined at the stage of investigation and/or trial... However, it is not open to them to decline to register an FIR. The law in this regard is clear — police officers cannot exercise any discretion when they receive a complaint which discloses the commission of a cognizable offence. Second, we deal with the issue of the discretion granted to a Magistrate vis-à-vis the exercise of powers under Section 156(3)CrPC. On this issue, the High Court has held that the JMFC was not under an obligation to direct the police to register the FIR and the use of the expression "may" in Section 156(3)CrPC indicated that the JMFC had the discretion to direct the complainant to examine witnesses under Sections 200 and 202CrPC, instead of directing an investigation under Section 156(3)."

ALLAHABAD HIGH COURT • 2024

SOURCE UPHC020566692024

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