



2026:AHC:169762-DB

A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
CRIMINAL MISC. WRIT PETITION No. - 23134 of 2025**

Amit Kumar Srivastava

.....Petitioner(s)

Versus

State of U.P. and 10 others

.....Respondent(s)

Counsel for Petitioner(s)	: Deepak Kumar Pandey, Vinay Kumar Mishra
Counsel for Respondent(s)	: Ashish Kumar Dubey, G.A., Rajesh Chandra Dwivedi

Court No. – 48

**HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE TARUN SAXENA, J.**

Per: Hon'ble Chandra Dhari Singh, J. (ORAL)

1. The instant writ petition has been filed by the petitioner with the following main reliefs:-

"(i) Issue a writ, order or direction in the nature of Mandamus commanding and directing the Respondent Authorities including the Respondent No. 3 to adhere the Order dated 04.12.2014 passed by this Hon'ble Court in Civil Misc. Writ Petition No. 52588 of 2014 [Razeena Bano and Another Vs. State of U.P.] and the mandatory directives given by the Hon'ble Supreme Court in the case of Lalita Kumari Vs. State of U.P. and Others reported in 2014 (2) S.C.C. Page 1 for registration of the First Information Report in pursuant to the

complaint of the Petitioner dated 01.08.2025 against the accused persons;

(ii) Issue a writ, order or direction in the nature of Mandamus commanding and directing the Respondent No. 2 to take appropriate action against the accused Respondent No. 3 for willfully disobedient the Circular dated 06.11.2014 issued by the Director General of Police, Uttar Pradesh as well as the mandatory directives given by the Order dated 04.12.2014 passed by this Hon'ble Court in Civil Misc. Writ Petition No. 52588 of 2014 [Razeena Bano and Another Vs. State of U.P.] and the mandatory directives given by the Hon'ble Supreme Court in the case of Lalita Kumari Vs. State of U.P. and Others reported in 2014 (2) S.C.C. Page 1."

Factual Matrix

2. The petitioner is a press reporter working for a news channel, namely, News18. It is stated that on 01.08.2025, at about 07:00 P.M., the petitioner went to Jhusi locality to cover the flood situation and capture footage of the affected areas. After capturing the footage, while returning home in his car, and when he reached Rahimapur, where four unknown persons riding two motorcycles allegedly approached him and opened fire with an intention to kill him. It is further submitted that the petitioner narrowly escaped the multiple rounds of firing as he was sitting inside his car, and the bullets struck the vehicle. Thereafter, on the same day, the petitioner went to the police station Jhunsu and submitted a complaint regarding the aforesaid incident.

3. In his complaint, the petitioner specifically stated that, being a reporter of a reputed news channel, he had incurred the displeasure of the mafia associated with Atiq Ahmad, as he had aired several reports against him on the news channel. According to the petitioner, the incident was committed at the instance of the said land grabbers, allegedly associated with Atiq Ahmad.

4. In the said complaint, the petitioner has specifically named respondent nos. 4 to 11, as he was acquainted with them and knew them to be close associates of the Atiq Ahmad gang. However, despite the complaint, the local police did not take any action and no First Information Report was registered against the persons named therein.

5. Aggrieved by the inaction of the local police, the petitioner has approached this Court by filing the present writ petition, seeking issuance of an appropriate direction, order or writ in the nature of mandamus commanding the authorities concerned to register an F.I.R. against respondent nos. 4 to 11 in respect of the allegations made in the complaint.

Submissions on behalf of the Petitioner

6. Learned counsel appearing on behalf of the petitioner submitted that the respondent authorities, particularly respondent no. 3, i.e., the Station House Officer, Police Station Jhunsi, District

Prayagraj, are hand in glove with the accused persons and, therefore, have intentionally failed to register the First Information Report against the persons named in the complaint, despite repeated requests made by the petitioner.

7. He further submitted that the petitioner had also approached the higher authorities, namely, respondent nos. 1 and 2, seeking registration of F.I.R. in accordance with the judgment of the Supreme Court in *Lalita Kumari v. State of Uttar Pradesh and Others*¹. However, no action was taken by the higher authorities with regard to registration of the F.I.R. against the accused persons.

8. Learned counsel for the petitioner next submitted that the failure to register F.I.R. on the complaint made by the petitioner amounts to gross negligence on the part of the police authorities and is in violation of the statutory provisions as well as the mandate laid down by the Supreme Court and various High Courts. It is submitted that the police are under a statutory obligation to register F.I.R. where the contents of a complaint, on a plain reading thereof, disclose the commission of cognizable offences.

9. In support of his submissions, learned counsel for the petitioner has relied upon the judgment of the Supreme Court in

¹ (2014) 2 SCC 1

Lalita Kumari (Supra); the order dated 04.12.2014 passed by this Court in Civil Misc. Writ Petition No. 52588 of 2014, *Smt. Razeena Bano and Others v. State of U.P. and 3 Others*, and the judgment and order dated 08.08.2023 passed by the Supreme Court in Special Leave Petition (Criminal) No. 5883 of 2020, *Sindhu Janak Nagargoje vs. The State of Maharashtra and Others*.

10. In view of the aforesaid facts and submissions, learned counsel for the petitioner lastly submitted that this Court may direct the police authorities to register the case against the accused persons on the basis of the complaint made by the petitioner.

Submissions on behalf of the State/Respondents

11. *Per-contra*, learned Additional Government Advocate appearing on behalf of the State-respondents has vehemently opposed the writ petition and submitted that the instant writ petition is nothing but a gross misuse of the process of law and is based upon false and fabricated facts. It is further submitted that the petitioner had concealed material facts while filing the present writ petition.

12. It was submitted that, upon receipt of the complaint made by the petitioner, the Station House Officer, Police Station Jhunsi, visited the place of occurrence mentioned in the complaint and

found that no such incident had taken place there. He also recorded the statements of the local residents and other persons of the vicinity, who informed him that no such incident had occurred on the date and time mentioned in the complaint. It was, therefore, submitted that the allegations made in the complaint were found false and fabricated, and, consequently, no F.I.R. was registered against the persons named therein.

13. Learned A.G.A. vehemently submitted that the petitioner had lodged a false complaint on 01.08.2025, as stated above. He further submitted that, at the relevant time, when news reports concerning the murder of Atiq Ahmad were being covered, several press agencies, electronic media, news channels and reporters were actively reporting from District Prayagraj. It is submitted that, under the pretext of covering the news relating to the murder of Atiq Ahmad, the petitioner sought to project himself as the sole prompt news reporter and, on that basis, intended to obtain police security for himself.

14. It is further submitted that the complaint was lodged before the police authorities only with an intention to get the security and that the present petition has also been filed with the ulterior motive of pressurising the police authorities for grant of security.

15. Learned A.G.A. also apprised the Court that, with regard to the complaint dated 01.08.2025 lodged at Police Station Jhunsi,

the Assistant Police Commissioner, Circle Jhunsi, independently conducted an inquiry at his level. In the said inquiry also, the allegations made by the petitioner were found to be completely false. It was further revealed during the inquiry that the petitioner had a tendency to lodge complaints against persons with whom he had rivalry, without any substantive basis.

16. Learned A.G.A. submitted that the Circular dated 06.11.2014 issued by the Director General of Police, Uttar Pradesh, is being duly followed and complied with by the police department. Therefore, insofar as the allegation regarding non-compliance of the said Circular dated 06.11.2014 is concerned, the same is wholly vague, baseless and devoid of merit.

17. Learned A.G.A. vehemently submitted that, in view of the aforesaid facts and circumstances, the instant writ petition is liable to be dismissed with heavy costs.

18. Learned counsel appearing on behalf of respondent nos. 4 to 11 have also opted the submissions advanced by learned A.G.A. for the State.

Analysis and Conclusion

19. Heard Mr. Deepak Kumar Pandey, learned counsel appearing on behalf of the petitioner, Mr. S.K. Ojha, learned Additional Government Advocate appearing on behalf of State-respondents,

Mr. Rajesh Chandra Dwivedi, learned counsel appearing on behalf the respondents, perused the contents made in the writ petition, material available on record, counter and rejoinder affidavits filed by the State as well as by the petitioner.

20. The crux of the petitioner's argument is that, despite the complaint regarding the incident having been submitted first to the concerned Station House Officer and thereafter to the higher police authorities, no First Information Report (FIR) was registered against the accused persons. It is further submitted that the contents of the complaint clearly disclose the commission of cognizable offences and that the failure to register an FIR is contrary to the law laid down by the Constitution Bench of the Supreme Court in *Lalita Kumari (Supra)*. It is, therefore, prayed that this Court may issue an order, direction, or writ in the nature of *Mandamus* directing the police authorities to register FIR and investigate the matter in accordance with the procedure prescribed under the statute and the law laid down by this Court and the Supreme Court.

21. On the other hand, the State has vehemently opposed the petitioner's complaint. It has been submitted that the Station House Officer concerned verified the facts stated in the complaint and found the allegations therein to be false and fabricated. It has further been submitted before the Court that no such

incident, as alleged by the petitioner, had ever taken place. In support of its stand, the State has relied upon the contents of its counter-affidavit dated 17.11.2025.

22. In view of the rival submissions advanced by the respective parties, we deem it appropriate, in the first instance, to consider the facts of the case in hand.

23. In the writ petition, it has been contended that the petitioner, a News18 reporter, alleged that on 01.08.2025, while returning after covering the flood situation in Jhusi, four unidentified persons on two motorcycles opened fire at his car in Rahimapur, allegedly with the intention of killing him. He further alleged that, owing to his reports against the mafia allegedly associated with Atiq Ahmad, the attack had been carried out at the instance of certain alleged land grabbers. Although the petitioner named respondent nos. 4 to 11 as associates of the said gang in his complaint submitted at Police Station Jhunsj, no F.I.R. was registered. Aggrieved by the alleged inaction on the part of the police authorities, the petitioner approached this Court seeking a direction for registration of FIR against the said respondents.

24. After filing the impugned complaint, the police investigated the matter and submitted its inquiry report to the effect that no such incident took place as alleged by the complainant. We have perused the inquiry report, annexed with the counter-affidavit

dated 17.11.2025, which is reproduced hereinbelow for ready reference:

"जांच का सारांश- शिकायती पत्र में जिन आरोपों/शिकायतों का उल्लेख किया गया है, उन पर बिन्दुवार आख्या - प्रश्नगत प्रकरण की जाँच एवं आवेदक आवेदक मुकेश चन्द्र पुत्र स्व० पुल्लू लाल जी निवासी सिंकन्दरा आगरा मो० 9719946522 के प्रा० पत्र का अवलोकन कर थानाध्यक्ष झूसी से आख्या प्राप्त कर अन्यान्य जानकारी कर जाँच की गयी एवं आवेदक उपरोक्त से वार्ता की गयी तो बताया कि मैं, संवाददाता इण्डिया न्यूज चैनल प्रयागराज द्वारा दिनांक 01.08.2025 को बाढ़ क्षेत्र झूसी को कवरेज करते हुए वापस घर जा रहा था तभी शाम 07 बजे दो मोटर साइकिल सवार 04 अज्ञात व्यक्तियों के द्वारा मुझे जान से मारने की नियत से अन्धाधून फायर किया गया जिसमें दो गोली कार के डिग्गी व शीरो पर लगी। हमला करने की साजिश माफिया अतीक अहमद के करीबी जैद खालिद, अतुल द्विवेदी, अतुल मिश्रा, आनन्द सिंह उर्फ निक्कू, बसपा नेता सईदुल रब, इमरान, जानू, एहतेशाम जामिदार व अन्य लोग हो सकते हैं क्योंकि इसके पूर्व मेरे (आवेदक) के द्वारा धूमनगंज में रंगदारी व धमकी देने के सम्बन्ध में उक्त लोगों के विरुद्ध मुकदमा भी पंजीकृत कराया गया है। सूचना प्राप्त होने पर मौके पर पुलिस द्वारा जांच करने पर पाया गया कि पत्रकार आवेदक श्री अमित श्रीवास्तव के साथ कार में बैठे उनके सहयोगी श्री अशोक अवस्थी के द्वारा एक मोटर साइकिल पर दो हमलावर सवार होना बताया गया, जबकि आवेदक अमित श्रीवास्तव द्वारा बताया गया कि दो मोटर साइकिल पर 04 हमलावर का होना बताया गया। आवेदक श्री अमित श्रीवास्तव के द्वारा बताया गया कि नायरा पेट्रोल पम्प रहिमापुर पर डीजल समाप्त हो गया जिस वजह से दूसरी पेट्रोल पम्प जो थोड़ी दूरी पर है जहाँ पर डीजल भरवाया गया इस सम्बन्ध में नामरा पेट्रोल पम्प का सीसीटीवी फुटेज चैक किया गया तो आवेदक अपने सहयोगी के साथ नायरा पेट्रोल पम्प आये हैं और कुछ क्षण रुक कर वहाँ से चले गये हैं सीसीटीवी में आवेदक के सहयोगी दो बार गाड़ी से उतरे हैं। मौके पर जाकर पेट्रोल पम्प पर जानकारी की गयी तो पेट्रोल पम्प पर डीजल व पेट्रोल का पर्याप्त स्टाफ मौजूद था। आवेदक श्री अमित श्रीवास्तव की गाड़ी पर दो गोली के निशान हैं एक डिग्गी में और दूसरा पीछे के दाहिने तरफ दरवाजे के ऊपर शीशे में है आवेदक की गाड़ी डिग्गी में रजाई गद्दा रखा था जिसमें गोली फसी हुई थी तथा दूसरी गोली पीछे वाली सीट पर फसी थी। जांच से यह तथ्य प्रकाश में आया है कि पीछे से गोली मारने के कोण का अनुपालन नहीं हो रहा है जिससे मारने के उद्देश्य से गोली चलाने की पुष्टि नहीं है। आवेदक श्री अमित श्रीवास्तव बाढ़ क्षेत्र की खबर कवर करने पूरे सूरदास गये थे वहाँ से वापस शहर (अपने आवास) आना चाहिए था परन्तु सहयोगी के साथ विपरीत दिशा में 04 किमी० आगे जौनपुर मार्ग पर गये तथा पेट्रोल पम्प पर इंधन डलवाया। आवेदक श्री अमित श्रीवास्तव के द्वारा थाना धूमनगंज में लिखाये गये मु०अ०सं०-114/25

धारा-191(2)/126 (2) 351(3)/308(3) BNS में कोई भी प्रभावी कार्यवाही न होने का जिक्र बार बार किया जा रहा था। जिसका उक्त घटना से भी सम्बन्ध प्रतिस्थापित किया जा रहा था। आवेदक श्री अमित श्रीवास्तव के द्वारा तहरीर में नामजद अभियुक्तगण जैद खालिद, अतुल द्विवेदी, अतुल मिश्रा, आनन्द सिंह उर्फ निक्कू, बसपा नेता सईदुल रब, इमरान, जानू, एहतेशाम जामिदार के विरुद्ध कई बार जमीन की कब्जेदारी के सम्बन्ध में खबर चलाने को लेकर हमला करने की बात बतायी जा रही है। आवेदक श्री अमित श्रीवास्तव के द्वारा पूर्व से ही गनर की मांग की जा रही थी जिसके सम्बन्ध में शासन को भी पत्र लिखा गया था, आवेदक द्वारा थाने आकर भी गनर की मांग की गयी। घटना के उपरान्त थाना झूसी पुलिस द्वारा घटना के आस पास काफी सीसीटीवी कैमरो में फूटेज देखा गया तो बाढ़ की खबर कवरेज के बाद वहां से निकल कर होमगार्ड तिराहा होते हुए रहिमापुर तिराहा पर आये जहां पर नायरा पेट्रोल पम्प पर गये परन्तु पेट्रोल / डीजल भरवाया नहीं गया। वहां से करीब 01 किमी० दाहिनी तरफ दूसरे पेट्रोल पम्प पर गये और इंधन ढलवाया तत्पश्चात वहां से वापस रहिमापुर की तरफ आये रहिमापुर तिराहे से वापस होमगार्ड तिराहे की तरफ गये। इस दौरान आवेदक के द्वारा चलायी जा रही गाड़ी की स्पीड बहुत धीमी थी जिससे गाड़ी के पीछे चल रही अन्य वाहन गाड़ी के पीछे से ओवर टेक करते हुए आगे निकल जा रहे थे। घटना के पूर्व एक मोटर साइकिल जिस पर दो व्यक्ति हेलमेट लगाकर बैठे थे वह भी थोड़ी दूर आगे गाड़ी को ओवरटेक कर दिये, गाड़ी कुछ समय तक रास्ते में खड़ी रही है। घटना स्थल के आस पास सड़क पर ही कई मकान हैं घटना स्थल के आस पास कई लोगो से गोली चलने के सम्बन्ध में पूछताछ की गयी तो उनके द्वारा बताया गया कि इस प्रकार की कोई घटना नहीं हुई है। अब तक के जांच से यह तथ्य प्रकाश में आ रहे है कि आवेदक के द्वारा गनर लेने के उद्देश्य से जान बूझ कर ऐसी घटना कारित करायी गयी है।"

25. Taking into consideration the contents and averments made in the writ petition as well as the counter-affidavit, it is evident that the parties are at variance on the question as to whether the alleged incident had actually taken place.

26. In view of the aforesaid facts and circumstances, the following issues arise for consideration and adjudication by this Court:

Firstly, whether, in a case where the facts are disputed, the High Court, in exercise of its jurisdiction under Article 226 of the

Constitution of India, can issue an order, direction, or writ in the nature of *mandamus* directing the police authorities to register an FIR.

Secondly, whether the petitioner, without availing the remedy available under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the present writ petition seeking a direction for registration of an F.I.R. is maintainable.

27. The power under Article 226 of the Constitution of India to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well. The High Court has the discretion to entertain or not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an efficacious alternate remedy is available to the aggrieved person. Exceptions to the rule of alternate remedy arise where *(a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.*

28. An alternative remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be

entertained when an efficacious alternative remedy is provided by law.

29. It is also settled law that in cases where there are disputed questions of fact, the High Court may decide to decline the jurisdiction in a writ petition. These principles have been consistently upheld by the Supreme Court in the cases of *Chand Ratan vs. Durga Prasad*², *Babubhai Muljibhai Patel vs. Nandlal Khodidas Barot*³, and *Rajasthan SEB vs. Union of India*⁴ among other decisions.

30. In this case, as discussed above, there are disputed facts regarding the commission of offence as alleged by the petitioner.

31. This Court is of the considered view that if a person has a grievance that his FIR has not been registered by the police, or that having been registered, a proper investigation is not being done, then the remedy of the aggrieved person is not to approach the High Court under Article 226 of the Constitution, but to approach the Magistrate concerned under Section 156(3) CrPC. [Section 175(3) BNSS].

32. The Magistrate, upon being *prima-facie* satisfied, can direct the FIR to be registered, or if it has already been registered, can direct a proper investigation to be conducted, including the power

2 (2003) 5 SCC 399

3 (1974) 2 SCC 706

4 (2008) 5 SCC 632

to recommend a change of the investigating officer to ensure a fair and proper investigation.

33. The Supreme Court has time and again emphasized that the Magistrate has very wide powers under Section 156(3) CrPC [Section 175(3) BNSS] to direct registration of an FIR and to ensure a proper investigation, and for this purpose, can even monitor the investigation. This remedy under Section 156(3) CrPC [Section 175(3) BNSS] is not merely an alternative, instead, it is the primary and preferred remedy that must be exhausted before approaching the High Court under Article 226. The Supreme Court in *Sakiri Vasu v. State of Uttar Pradesh*⁵, has categorically held that if a person has a grievance that his FIR has not been registered by the police, or that having been registered, a proper investigation is not being done, then the remedy of the aggrieved person is not to approach the High Court under Article 226 of the Constitution, but to approach the Magistrate concerned under Section 156(3) CrPC [Section 175(3) BNSS]. The Magistrate, upon being prima facie satisfied, can direct the FIR to be registered, or if it has already been registered, can direct a proper investigation to be conducted, including the power to recommend a change of the investigating officer to ensure a fair and proper investigation. The Supreme Court emphasized that the Magistrate has very wide powers under Section 156(3) CrPC [Section 175(3) BNSS] to

⁵ (2008) 2 SCC 409

direct registration of an FIR and to ensure a proper investigation, and for this purpose, can even monitor the investigation.

34. The Supreme Court has recently reaffirmed this position in *Sujal Vishwas Attavar v. State of Maharashtra*⁶, holding that the extraordinary jurisdiction under Article 226 cannot be used to compel registration of an FIR where efficacious statutory remedies under the BNSS exist and have not been exhausted. The Court emphasized that grievances about FIR registration must first be pursued through the statutory hierarchy of police superintendent and magistrate before seeking writ relief. Similarly, in various other recent decisions, the Supreme Court has quashed directions issued by High Courts for the registration of FIRs under Article 226 where the complainant had not exhausted the alternative remedies available under the criminal procedure framework. This consistent line of authority underscores the need to curb the growing trend of litigants rushing to the High Court without first availing the statutory remedies, as it not only defeats the purpose of the procedure prescribed under the BNSS/CrPC but also creates a surmounting burden on the High Court, which is meant to exercise its extraordinary jurisdiction in rare and exceptional cases.

35. It is a well-established principle of law that the writ jurisdiction under Article 226 is discretionary and subject to self-

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imposed restrictions, including the rule of exhaustion of alternative remedies. Where an effective and efficacious alternative remedy is available to the aggrieved person, this Court ought not to entertain a petition under Article 226, unless exceptional circumstances exist, such as a violation of fundamental rights, breach of natural justice, lack of jurisdiction, or where the statutory remedy is illusory or ineffective.

36. In matters relating to the registration of FIRs and investigation, the statutory remedies under Section 173(4) and Section 175(3) BNSS [or Section 154(3) and Section 156(3) CrPC] are not only available but are highly efficacious, as the Magistrate has the power to direct registration, order investigation, and monitor the same. To entertain a writ petition in the first instance, without the petitioner having approached the Magistrate, effectively results in this Court acting as a forum of first instance, thereby completely bypassing the structured statutory scheme, which is impermissible.

37. The Parliament, in its wisdom, has enacted a comprehensive procedural code governing the registration of FIRs and the investigation of offences. Under Section 173(1) BNSS [corresponding to Section 154(1) CrPC], every information relating to the commission of a cognizable offence must be reduced to writing and registered as an FIR.

38. Where the police refuse to register an FIR, Section 173(4) BNSS [Section 154(3) CrPC] provides the first statutory remedy: the aggrieved person may approach the Superintendent of Police or other higher police officers by submitting a written complaint.

39. If even that fails, Section 175(3) BNSS [Section 156(3) CrPC] empowers the jurisdictional Magistrate to direct the registration of an FIR and to ensure a proper investigation, including the power to monitor the investigation. This statutory scheme is not a mere formality, rather it reflects a deliberate legislative design to ensure that grievances are addressed at the appropriate level before resorting to constitutional remedies. To skip this statutory sequence and rush directly to this Court under Article 226 is to undermine the legislative intent and to treat the High Court as a forum of first instance, which is impermissible.

40. It is well-settled, following the Constitution Bench judgment in *Lalita Kumari (Supra)*, that registration of an F.I.R. is mandatory under Section 154 CrPC [now Section 173 BNSS] if the information discloses the commission of a cognizable offence, and no preliminary inquiry is permissible in such a situation.

41. The police officer cannot avoid his duty of registering an offence if a cognizable offence is disclosed, and action must be taken against erring officers who fail to register the FIR. However, what *Lalita Kumari (Supra)* does not sanction is the bypassing of

the statutory remedies available to an aggrieved person when the police fail to discharge their mandatory duty.

42. The judgment in Lalita Kumari was rendered to ensure that the police perform their statutory obligation, not to encourage litigants to approach the High Court directly without first availing the remedies under Section 154(3) and Section 156(3) CrPC [or their BNSS equivalents].

43. It has been observed with considerable concern that there is a growing trend of litigants approaching this Court under Article 226 of the Constitution of India, seeking directions to the police to register a First Information Report, without first exhausting the statutory remedies available under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) [or the Code of Criminal Procedure, 1973, as applicable].

44. While this Court is sympathetic to the grievances of citizens who find themselves at the receiving end of police inaction or refusal to register an FIR, and while the right to have a cognizable offence investigated is a valuable right, it cannot be countenanced that the extraordinary writ jurisdiction of this Court be converted into a first resort rather than a last resort.

45. The floodgates of Article 226 cannot be opened to bypass the carefully structured statutory hierarchy prescribed by Parliament,

which provides sequential, efficacious remedies for precisely such situations.

46. While this Court is sympathetic to the plight of citizens who find their right to have a cognizable offence investigated frustrated by police inaction, and this Court fully appreciates that the right to a fair investigation is part of the right to life and personal liberty under Article 21 of the Constitution of India, sympathy cannot override procedure. The procedure prescribed under the BNSS/CrPC is not a mere technicality. It is a substantive safeguard that ensures that grievances are addressed at the appropriate level, with the Magistrate serving as an independent judicial officer who can direct registration, order investigation, and monitor the same. To allow litigants to bypass this statutory scheme and approach this Court directly would not only undermine the legislative intent but would also encourage a culture of bypassing statutory remedies, which is detrimental to the rule of law. This Court must, therefore, insist that litigants first exhaust the statutory remedies available under Section 173(4) and Section 175(3) BNSS [or Section 154(3) and Section 156(3) CrPC] before approaching this Court under Article 226, unless exceptional circumstances exist which warrant direct intervention.

47. It is high time to curb this growing trend of litigants rushing to the High Court without first availing the statutory remedies, as it

not only defeats the purpose of the procedure prescribed under the BNSS/CrPC but also creates an immense burden on this Court, which is meant to exercise its extraordinary jurisdiction in rare and exceptional cases.

48. Taking into consideration of the disputed facts of the instant case, law laid down by the Supreme Court and other discussions in the foregoing paragraphs, the issue no. (i) and (ii) are accordingly decided.

49. Therefore, we do not find any reason to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India for issuance of order, direction or writ in the nature of Mandamus, as prayed in the instant writ petition.

50. Accordingly, the writ petition is *dismissed*.

(Tarun Saxena,J.) (Chandra Dhari Singh,J.)

August 12, 2026
Saurabh