

(2024) 01 RAJ CK 0001

In the Rajasthan High Court

Case No : Criminal Miscellaneous (Petition) No. 7941 Of 2023

Kuldeep

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 02-01-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 36, 156(3)

Citation : (2024) 01 RAJ CK 0001

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Kshitiz Vyas, Moti Singh, Abhishek Purohit

Final Decision : Disposed Of

Judgement

Dinesh Mehta, J

1. The present misc. petition has been filed by the petitioner raising a grievance that despite first information report having been lodged against the accused, no effective steps have been taken with regard to investigation of the matter.

2. While informing that charge-sheet has not been filed so far, learned counsel for the petitioner prays that respondent - State be directed to fairly conduct the investigation and file charge-sheet in the case.

3. Taking into consideration the facts and circumstances of the case and the prayer made by the petitioner-complainant, this Court is of the view that the petitioner must proceed under the provisions of Code of Criminal Procedure as laid down by Hon'ble the Supreme Court in the case of Sakiri Vasu Vs. State of Uttar Pradesh & Ors. : 2008 (2) SCC 409, wherein Hon'ble the Supreme Court has laid down as under :

"15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has

not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.

30. It may be further mentioned that in view of Section 36 Cr.P.C. if a person is aggrieved that a proper investigation has not been made by the officer-in-charge of the concerned police station, such aggrieved person can approach the Superintendent of Police or other police officer superior in rank to the officer-in-charge of the police station and such superior officer can, if he so wishes, do the investigation vide CBI vs. State of Rajasthan and another 2001 (3) SCC 333 (vide para 11), R.P. Kapur vs. S.P. Singh AIR 1961 SC 1117 etc. Also, the State Government is competent to direct the Inspector General, Vigilance to take over the investigation of a cognizable offence registered at a police station vide State of Bihar vs. A.C. Saldanna (supra)."

4. Learned Public Prosecutor assures this Court that fair and transparent investigation shall be made and in case the petitioner-complainant submits a representation along with all the relevant documents before the concerned Court or Superintendent of Police within a period of two weeks from today, the same shall be considered appropriately.

5. The present misc. petition is thus, disposed of with direction to the concerned Court/Superintendent of Police to consider petitioner's representation (if filed) and ensure fair investigation, in accordance with law as has been held by Hon'ble the Supreme Court in the case of Sakiri Vasu (supra).