



2026:AHC-LKO:41460-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL MISC. WRIT PETITION No. - 5446 of 2026

Rohit Kumar

.....Petitioner(s)

Versus

State Of U.P. Thru. Secy. Deptt. Home Lko. And
Others

.....Respondent(s)

Counsel for Petitioner(s) : Brijesh Kumar Pandey, Rajeshwar
Prasad, Rama Shankar
Counsel for Respondent(s) : G.A.

Court No. - 2

**HON'BLE SAURABH LAVANIA, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

1. Heard.

2. The instant petition has been preferred seeking following main relief(s):-

"a. Issue a writ order or direction in the nature of Mandamus thereby commanding to the opposite party no.2 and 3 to perform their legal duty and take appropriate action in this matter as per law laid down by the Hon'ble Supreme Court of India in case of Lalita Kumari versus Govt. of Uttar Pradesh and other (2014)2 SCC 1 and further direct the opposite party no.2 and 3 to accept the application of the petitioner dated 20.08.2026 & 06.09.2026 comply their legal duty under section 173 & 30 of B.N.S.S. read with para 97 of U.P. Police Regulation Act and as per law laid down by the Hon'ble Supreme Court of India."

3. Learned counsel for the petitioner has submitted that the petitioner had attempted to lodge the first information report against the respondent no. 5 but no heed was paid and the F.I.R. was not lodged. The petitioner also moved an application/representation dated 30.05.2026 in this regard, but till date FIR has not been lodged.

4. The Hon'ble Apex Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and others reported in (2014) 2 SCC 1**, has observed that a Police Officer cannot avoid his duty for

registering an offence if in the application cognizable offence discloses and in case they avoid such responsibility, an action to be taken against the erring Officer under Section 161-A of Cr.P.C. or Departmental Proceedings be initiated and such proceedings can be taken against erring Officer in not registering the FIR.

5. Learned A.G.A. has also pointed out that the judgment rendered by the Division Bench of this Court in the case of **Waseem Haider Vs. State of U.P. and others reported in (2021) 2 ADJ 86**, to say that after considering the law laid down by the Hon'ble Apex Court in **Lalita Kumari (supra)**, whereby this Court expressed its opinion that the informant has statutory remedy under Section 156(3) Cr.P.C. or under Section 200 of Cr.P.C. Paragraph-45 of the said judgment is being quoted hereinbelow:-

"45. Before parting, the conclusion arrived at based on the above discussion and analysis is delineated below for ready reference and convenience :-

(1) Writ of mandamus to compel the police to perform its statutory duty under Section 154 Cr.P.C can be denied to the informant/victim for non-availing of alternative remedy under Sections 154(3), 156(3), 190 and 200 Cr.P.C., unless the four exceptions enumerated in decision of Apex Court in the the case of Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Ors., (1998) 8 SCC 1, come to rescue of the informant / victim.

*(2) The verdict of Apex Court in the case of **Lalita Kumari Vs. 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 Section 154(3), 156(3), 190 and 200 Cr.P.C.*

(3) The informant/victim after furnishing first information regarding cognizable offence does not become functus officio for seeking writ of mandamus for compelling the police authorities to perform their statutory duty under Section 154 Cr.P.C in case the FIR is not lodged.

(4) The proposed accused against whom the first information of commission of cognizable offence is made, is not a necessary party to be impleaded in a petition under Article 226 of the Constitution of India seeking issuance of writ of mandamus to compel the police to perform their statutory duty under

Section 154 Cr.P.C."

6. Considering the aforesaid as above, Section 175 of B.N.S.S., akin to Section 156 Cr.P.C. and Section 223 of B.N.S.S., akin to Section 200 Cr.P.C., this Court is not inclined to entertain the present petition for the main relief(s) sought, quoted above, and accordingly it is disposed of with liberty to the petitioner, if the petitioner is aggrieved by non-lodging of the FIR, to avail the appropriate remedy of filing a complaint under Section 175 of B.N.S.S. or under Section 223 of B.N.S.S.

7. This writ petition stands **disposed of**.

**June 18,
2026**

kkv/

(Pramod Kumar Srivastava,J.) (Saurabh Lavania,J.)