

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-16153-2012

Date of decision: 15.05.2015

Raj Kumar Luthra

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. Vinay Begra, Advocate for
Mr. Vikas Cucria, Advocate for the petitioner.

Mr. Gazi Mohd., DAG, Punjab.

Mr. MS Bedi, Senior Advocate with
Mr. Ajitpal Singh Sabharwal, Advocate
for respondents No. 3 and 4.

R.P. NAGRATH, J.

The petitioner has invoked inherent jurisdiction of this Court under Section 482 Cr.P.C. for issuance of a direction to official respondents No. 1 and 2 to register FIR against respondents No. 3 and 4 for forcibly entering into the property of petitioner and misappropriating the household articles belonging to him.

2. I have heard learned counsel for the petitioner and learned State counsel assisted by learned senior counsel for respondents No. 3

and 4.

3. Marriage of son of the petitioner, namely; Sahil Luthra was solemnized with respondent No. 4-Sandeep Kaur daughter of respondent No. 3-Gurmeet Singh on 30.04.2008. It was submitted by learned senior counsel for respondents No. 3 and 4 that the petitioner left for abroad just after 15 days of marriage. An FIR No. 175 dated 29.11.2008, under Sections 498-A/406/506 of the Indian Penal Code at Police Station City Batala, District Batala was recorded by respondent No. 3 in which the petitioner is also a co-accused and was declared as proclaimed offender vide order dated 17.07.2009 (Annexure R-3/1) passed by the learned Sub Divisional Judicial Magistrate, Batala.

4. The instant petition has been filed through attorney by the petitioner who is a Non-Resident Indian (NRI). The basic prayer of the petitioner was that in the first week of May, 2012, the private respondents have broken open the locks of the house which was in the name of father of the petitioner and entered into forcible possession and committed other illegal acts of misappropriation. It was contended by learned senior counsel for respondents No. 3 and 4 that possession of respondents over the property in question is legal.

5. Reply by official respondents No. 1 and 2 was also filed. It was stated that father of petitioner had executed an agreement to sell dated 02.01.2008 in favour of respondent No. 4-Sandeep Kaur daughter of respondent No. 3-Gurmeet Singh, in respect of the house in question for a consideration of ₹ 32 lacs in the presence of petitioner and possession of the house was also delivered.

6. Without going into the disputed questions on merits, I find from the aforesaid facts and circumstances further indulgence of this Court is not required. Various options are available to the petitioner to pursue his remedy of this nature.

7. Hon'ble Supreme Court in **Sakiri Vasu Vs. State of U.P. And others 2008 (2) SCC 409**, held that it is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere. It was further held as under:

“26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?”

8. In view of the above and keeping in view the facts and circumstances of the case, this matter does not need indulgence of this

Court in exercise of its inherent powers under Section 482 Cr.P.C. The petitioner may have recourse of alternative remedies. In case, the private complaint is filed it would be for the Magistrate to decide the appropriate course how to proceed in the complaint made to it, on application of mind, whether proceed to take cognizance of the complaint or to take action under Section 156(3) Cr.P.C.

9. The instant petition is disposed of with the above observations.

May 15, 2015
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(R.P. NAGRATH)
JUDGE