In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-28678 of 2015

.....

Date of decision:27.8.2015

Bindu Aggarwal

...Petitioner

v.

State of Punjab and others

...Respondents

....

**Coram: Hon'ble Mr. Justice Inderjit Singh**

**.....**

Present: Mr. Kehar Singh Hissowal, Advocate for the petitioner.

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**Inderjit Singh, J.**

This criminal miscellaneous petition has been filed by petitioner under Section 482 Cr.P.C. for issuance of appropriate directions to official respondents, specially respondent No.3 to take the petitioner along with respondent No.3 whenever they are going to make the recovery of dowry articles from private respondents against whom FIR No.34 dated 9.5.2015 for the offences under Serctions 498-A and 406 IPC at Police Station Bareta, District Mansa and the recovery of dowry articles is yet awaited and the Police is making the excuses that they are not identifying the dowry articles and directions be issued to the Police that they should take legal action against the private respondents. Further prayer has been made to protect the life and liberty of the petitioner.

I have heard learned counsel for the petitioner and have gone through the record.

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In the present case, FIR has already been registered and the main prayer of the learned counsel for the petitioner is that the investigation is not being done fairly and the Police is not recovering the dowry articles from the accused-private respondents.

From the arguments, it is clear that the petitioner wants the relief regarding proper investigation in this case.

It is settled law that the Judicial Magistrate has ample powers to supervise the investigation and even to monitor the investigation as held by the Hon'ble Supreme Court in Sakiri Vasu v. State of U.P. and others, 2008 (1) RCR (Cr.) 392 (SC). After giving my thoughtful consideration to the matter, it may be noticed that in Sakiri Vasu v. State of U.P. and others, (supra), it was observed by the Supreme Court 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. If such an application under Section 156 (3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation

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to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.

17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C, though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154 (3) before the concerned police officers, and if that is of no

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> avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C."

The law laid down in this judgment has also been relied upon by the Hon'ble Supreme Court in T.C. Thangaraj v. V. Engammal and others, 2011 (3) R.C.R. (Cr.) 751 and held as under:-

> "It should also be noted that Section 156 (3) of the Code of Criminal Procedure provides for a check by the Magistrate on the police performing their duties and where the Magistrate finds that the police have not done their duty or not investigated satisfactorily, he can direct the Police to carry out the investigation properly and can monitor the same."

Therefore, keeping in view of the law laid down by the Hon'ble Supreme Court in Sakiri Vasu v. State of U.P. and others (supra) and T.C. Thangaraj v. V. Engammal and others (supra), this petition under Section 482 Cr.P.C. is not liable to be entertained.

As regards the protection of life and liberty, nothing has been there on the record prima facie to show the threat to the life of the present petitioner. There is no DDR ever recorded regarding any threat nor there is any particulars when the threat was given and whether in person or on mobile phone or any other particulars have been given.

Keeping in view the facts and circumstances, no ground is made out for giving any direction to protect the life and liberty.

Therefore, from the above, I find that the present petition is

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dismissed. However, the petitioner is at liberty to avail the alternative remedy before the Magistrate etc. as held in the above mentioned cases, who has enough powers under Section 156(3) Cr.P.C. to supervise the investigation. Even the Magistrate can monitor the investigation as held by the Hon'ble Supreme Court in the above mentioned cases.

Therefore, the petitioner having other alternative remedies seeking the issuance of any direction by this Court in exercise of its inherent powers under Section 482 Cr.P.C. would be wholly improper besides being premature.

August 27, 2015. **(Inderjit Singh)**
**Judge**

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