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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38258 of 2012 (O&M)

Date of decision: October 12, 2015

Karnail Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. H.P.S. Sandhu, Advocate
for the petitioner.

Mr. R.P.S. Sidhu, AAG Punjab.

Ms. Sunita Punia, Advocate for
Mr. Rajiv Kataria, Advocate
for respondent No.4.

SABINA, J

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, 1973 seeking direction to respondent No.2 to conduct impartial inquiry on the complaints/representations moved by him or to get the same done through Vigilance Bureau, Punjab and register FIR against respondent No.4 under Section 420 of Indian Penal Code, 1860.

Heard.

It has been held by the Apex Court in ***Sakiri Vasu vs.***

State of U.P. and others, 2008 (1) RCR (Criminal) 392 as under:-

"24. In view of the above mentioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and/or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the

opinion that they are implied in the above provision.

25. We have elaborated on the above matter because we often find that when some one has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482 Cr.P.C. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters, and relagate the petitioner to his alternating remedy, firstly under Section 154 (3) and Section 36 Cr.P.C. before the concerned police officers and if that is of no avail, by approaching the concerned Magistrate under Section 156 (3).

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 ?”

Since the petitioner is seeking a direction for registration of FIR against respondent No.4, no ground for interference is made out in view of decision of the Apex Court in Sakiri Vasu's case (supra).

Dismissed.

(SABINA)
JUDGE

October 12, 2015
mahavir