

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-35856-2015 (O&M)
Date of Decision:- 21.10.2015.

Johny Mathew

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Johny Mathew (petitioner) in person.

P.B. BAJANTHRI, J.(Oral)

The petitioner has filed this petition under Section 482 of Code of Criminal Procedure seeking a direction to appoint some other Investigating officer not below the rank of Deputy Superintendent of Police of any independent efficient agency etc. His grievance is relating to civil dispute and submits that he has also filed complaint before the jurisdictional police and the same is not acted upon by the jurisdictional police. The matter is purely a civil matter and the petitioner is already before the civil court, therefore, this petition is not maintainable. Insofar as not taking any action on the complaint is concerned, the petitioner has other remedies. The same may be invoked for grievance sought in this petition. The Supreme Court time and again held that under what circumstances Section 482 Cr.P.C. can be entertained by the High Court. The following guidelines have been issued in the case of *State of Haryana and others versus Ch. Bhajan Lal Ors.* reported in 1992 AIR (SC) 604. Relevant extract of the judgement is as follows:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code;

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code.

(5) where the allegations made in the FIR or complaint are so

absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. *We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest or rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”*

In view of the ratio laid down by the Apex Court, the petitioner has not made out case to interfere in the matter.

21.10.2015

pooja saini

(P.B.BAJANTHRI)
JUDGE