

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-5667 of 2015

.....

Date of decision:20.2.2015

Shamima

...Petitioner

v.

Union Territory, Chandigarh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vivek Goyal, 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 regarding the fair and proper investigation in case FIR No.355 dated 28.8.2014 registered for the offences under Sections 323, 406, 498-A and 506 IPC at Police Station Manimajra, Chandigarh from some higher Police Officials not below the rank of DSP or to get investigation done of the above said FIR from some independent agency. It is also stated that directions be issued to respondents No.1 to 3 to protect the life and liberty of the present petitioner from the hands of respondents No.4 to 9, who themselves and through local Police are pressurizing the petitioner to withdraw her FIR and compromise the matter.

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

First of all nothing has been shown to me at the time of arguments from where it can be held that the petitioner is feeling serious threat or apprehension to her life and liberty. The only plea, which has been taken, is that the official respondents as well as others are pressurizing her to withdraw the FIR.

Keeping in view the facts and circumstances of the present case and in view of the fact that neither any occurrence has taken place nor any threat has been given directly nor any DDR has been got registered regarding threat having been given, I do not find any ground that there is serious threat to life and liberty of the present petitioner.

As regards the fact that fair investigation be got conducted from independent agency or police officials not below the rank of DSP, I find that the FIR has been registered regarding matrimonial dispute for the offences under Sections 323, 406, 498-A and 506 IPC, there is no necessity to get the matter investigated through the senior officer i.e. Gazetted Officer.

If the petitioner is aggrieved from the investigation being conducted in this FIR, she can approach the Illaqa Magistrate, who has ample powers to supervise the investigation and even to monitor the investigation as held in Sakiri Vasu v. State of U.P. and others, 2008 (1) RCR (Cr.) 392 (SC), wherein it has been observed by the Hon'ble Supreme Court as under:-

“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.”

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, wherein it has been 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.”

With the observations that the petitioner can avail her alternative remedy by approaching the Illaqa Magistrate for fair and proper investigation and 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 is disposed of.

February 20, 2015.

(Inderjit Singh)
Judge

hsp