

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-5919-2015

Date of decision : 04.05.2015

Kishore

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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. Shalender Mohan, Advocate for petitioner.

DARSHAN SINGH, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (here-in-after called 'Cr.P.C.') for investigation of case FIR No.369 dated 03.06.2011 under Sections 420, 467, 468, 471, 120-B, 323, 506 of the Indian Penal Code, 1860 (here-in-after called 'IPC') Police Station Civil Lines, Hisar by Central Bureau Investigation Agency, New Delhi or any other independent agency out of the State.

2- It has been further prayed that the direction may be issued

to respondents to take appropriate action against the private respondents, who are having inconvenience with the police officials misusing the process of law. Further, directing the respondent No.3 to protect the life and liberty of the petitioner and his family members, as respondents are threatening the petitioner to kill and the petitioner has full apprehension and danger to his life.

3- Learned counsel for the petitioner contended that respondent No.5 was a property dealer and offered the petitioner for the purchase of a plot. Petitioner paid the whole of the sale consideration of Rs.29,00,000/- in the presence of the witnesses. Even the sale deed dated 15.02.2008 was registered in favour of the petitioner with respect to the plot in question. Thereafter, respondent No.5 again by impersonating the petitioner and forging the signatures of the petitioner got registered the sale deed dated 29.12.2008 in favour of respondent No.6 who happens to be the wife of respondent No.5. When this fact came to the notice of petitioner, he immediately approached the private respondents as well as the police officers for redressal of his grievance. But no action was taken by respondent No.4. So, he filed a complaint before the learned Judicial Magistrate, Hisar who sent the said complaint for registration of case under Section 156(3) Cr.P.C., on the basis of which the present First Information Report was registered. But now, as the private respondents are influential persons, no action is being taken against them by respondents No.3 & 4. Thus, he pleaded that the investigation of the present case may be transferred to the Central Bureau Investigation

Agency, New Delhi or some independent agency outside the State.

4- I have duly considered the aforesaid contentions.

5- The only grievance raised by learned counsel for the petitioner at the time of arguments is that the First Information Report was registered against the private respondents on the orders of the Magistrate and now no action is being taken against them by the police and the case is not being properly investigated.

6- It is settled principle of law that where the alternative remedy is available to the petitioner, the extra ordinary inherent powers under Section 482 Cr.P.C. should not be exercised. In the instant case, as per the averments in the petition itself, the First Information Report has been registered on the orders of the Judicial Magistrate under Section 156(3) Cr.P.C. In the cases, where the First Information Report has been lodged under Section 156(3) Cr.P.C., the Magistrate can even monitor the investigation. The Hon'ble Supreme Court in case **Sakiri Vasu Vs. State of U.P. and others 2008(1), RCR (Criminal) 392**, has laid down as under :-

“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 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.”

7- In view of the aforesaid ratio of law laid down by the Hon'ble Apex Court, the petitioner has an alternative remedy to approach the Magistrate to get his grievance redressed. So, the present petition under Section 482 Cr.P.C. cannot be entertained.

8- Thus, keeping in view my aforesaid discussion, the present petition is hereby dismissed.

04.05.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**