

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-8357 of 2015
DECIDED ON: MAY 18, 2015

RAMESH BATTA

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporter of 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. HPS Ghuman, Advocate
for the petitioner.

JASPAL SINGH, J

Instant petition has been preferred under Section 482 Cr.P.C. by Ramesh Batta-petitioner seeking registration of FIR against the accused persons mentioned in representation dated August 22, 2014 (Annexure P-4), as per law laid down by Hon'ble Apex Court in the case captioned as **Lalita Kumari v. State of U.P.; 2012 (4) SCC 1** by ignoring inquiry report dated November 10, 2014 (Annexure P-7) conducted by Deputy Superintendent of Police, Nabha-respondent No.3 as the same is absolutely wrong, illegal and product of illegal motivation.

2. While relying upon various observations laid down in **Lalita Kumari's** case (supra), it has been contended by learned counsel for the

petitioner that registration of FIR is mandatory under Section 154 Cr.P.C., if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation. Further that police officer cannot avoid his duty in registering FIR if cognizable offence is disclosed. Similarly, an action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence. Moreover, the scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

3. Adverting back to the facts of the case in hand, learned counsel for the petitioner has submitted that even though an inquiry was conducted by respondent No.3-Deputy Superintendent of Police, Nabha, which has concluded that allegations levelled in complaint are not established, the police is bound to register the FIR and to investigate the case in view of observation made by Hon'ble Apex Court in ***Lalita Kumari's*** case (supra).

4. The controversy similar one, which is involved in this case earlier came up for hearing before Hon'ble Apex Court in the case captioned as ***Sakiri Vasu v. State of U.P. and others; 2008 (1) RCR (Criminal 392*** and observation made by Hon'ble Apex Court reads 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 relegate 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?"*

5. In the case in hand, petitioner is virtually seeking a direction for registration of FIR but he did not approach the concerned authority for registration of FIR. Petition under Section 482 Cr.P.C. is not maintainable especially, in the circumstances that petitioner has got other efficacious/alternative remedies, as has been discussed in the foregoing paragraphs.

6. Accordingly, instant petition is dismissed. However, petitioner would be at liberty to approach the Magistrate under Section 156(3) Cr.P.C. or to avail any other alternative remedy provided under law, if so advised.

MAY 18, 2015
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(JASPAL SINGH)
JUDGE