

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-9442-2015

Date of decision: 23.03.2015

Sourav Maini

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

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. Arpan Sabharwal, Advocate for the petitioner.

R.P. NAGRATH, J. (ORAL)

The instant petition under Section 482 Cr.P.C. has been filed with a prayer for issuance of a direction to respondents No. 2 and 3 to re-investigate FIR No. 21 dated 31.03.2014 registered under Sections 323/341/506 read with Section 34 of the Indian Penal Code (IPC) at Police Station Division No. 8, Ludhaina.

2. Learned counsel for the petitioner submits that FIR was recorded on the statement of Rajesh Kumar S/o Om Parkash-respondent No. 4 herein. However, the petitioner is also stated to have been caused injury but his version was not recorded. It is further submitted that challan has still not been presented by the Investigating Agency.

3. The version of the petitioner is reproduced as under:-

“3) That the above mentioned facts in the FIR are false and incorrect and the true facts of the case are

that the petitioner and the respondent No. 4 are neighbours and live across from each other and that the respondent No. 4 instead of parking his car in his house or in front of his house, would deliberately park it in front of the petitioner's house to harass them and the petitioner along with his father and brother tried to explain him and tell him to not park his car in front of their house, but the respondent No. 4 instead used to threaten them. That on 29.03.2014, at around 8:50 PM, the respondent No. 4 again parked his car in front of the petitioner's house and when the petitioner, along with his father and brother, asked him not to do so, the respondent No. 4 along with respondents No. 5 to 7 started beating them up and when the petitioner along with his brother and father ran inside their home to save their lives, the respondents No. 4 to 7 entered their house and started beating them again and caused bodily harm to them. The petitioner then went to the Civil Hospital and got his medical check up done from there. The Medico Legal Report (MLR) of the petitioner has been attached as Annexure P-2 for kind perusal of this Hon'ble Court.

4) That the petitioner, after getting his MLR from the Civil Hospital, Ludhiana, went to the Police Station to get an FIR registered against the

respondents No. 4 to 7. That upon reaching the Police Station, the police called the respondents No. 4 to 7 also to the Police Station and told the petitioner and his father and brother that no good would come out from registering an FIR and that both the parties should enter into a compromise and not hold any grudges against each other. The police then got some signatures of the petitioner and his brother and father and told them that their matter has been compromised and asked them to go back home.”

4. Looking into the facts of this case, I am of the considered view that no indulgence of this Court is required. Various options are available to the petitioner to pursue his remedy of this nature.

5. Hon'ble Supreme Court in **Sakiri Vasu Vs. State of U.P. And others 2008 (2) SCC 409**, held that it is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere. It was further held as under:

“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?”

6. In view of the above and keeping in view the facts and circumstances of the case, this matter does not need indulgence of this Court in exercise of its inherent powers under Section 482 Cr.P.C. The petitioner may have recourse of alternative remedies. In case, the private complaint is filed it would be for the Magistrate to decide the appropriate course how to proceed in the complaint made to it, on application of mind, whether proceed to take cognizance of the complaint or to take action under Section 156(3) Cr.P.C.

7. The instant petition is disposed of with the above observations.

March 23, 2015

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**(R.P. NAGRATH)
JUDGE**