

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

**Criminal Misc.No.M-9983 of 2014
Date of Decision: February 09, 2015**

Ikattar Singh

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Bir Davinder Singh, Advocate, for
Mr.K.S.Chahal, Advocate,
for the petitioner.

Mr.K.S.Pannu, DAG, Punjab.

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition is for issuance of a direction to respondent Nos.2 and 3 for registration of FIR against Narinder Singh, Manpreet Kaur, Sukhdev Kaur, brother-in-law of a brother of Narinder Singh (name not disclosed) and two sister-in-laws of Narinder Singh (names not disclosed) for having committed the murder of Pritam Kaur daughter of Dr.Ajmer Singh in connivance with each other.

Learned proxy counsel for the petitioner contends that earlier Pritam Kaur had lodged the report regarding the murder of his brother Kuldeep Singh but later on Pritam Kaur has also been murdered. The police has not inquired into the

matter properly under the influence of the accused persons named in the complaint.

On a specific query to learned proxy counsel for the petitioner to narrate the circumstances from where the petitioner has inferred that persons named by him have committed the murder of Pritam Kaur but he failed to answer the query.

On the other hand, learned counsel for the State submits that after thorough inquiry, Commissioner of Police, Ludhiana, arrived at the following conclusion:-

- (i) Pritam Kaur (since deceased) was an unmarried lady and she was in contact with Ikattar Singh, who was helping her in every respect but the said fact could not be substantiated;
- (ii) Pritam Kaur had suffered paralytic attack in the month of February, 2013 and she remained in the hospital from 3.2.2013 to 8.2.2013 and earlier thereto she remained admitted in GTB hospital Ludhiana on 01.02.2013;
- (iii) On 15.04.2013 Pritam Kaur got admitted in D.M.C.hospital, Ludhiana. Ikattar Singh as well as opposite party levelled the allegations against each other. The stand of Ikattar Singh was that Pritam Kaur

was hale and hearty while the other party submitted that Pritam Kaur was their aunt (*bhua*) and they wanted to get her the proper treatment but Ikattar Singh was not allowing them to get Pritam Kaur admitted in the hospital;

(iv) Pritam Kaur had died on 17.04.2013 at D.M.C. Hospital, Ludhiana and in that regard, a death certificate was also issued. During inquiry, medical case summary from D.M.C.hospital relating to Pritam Kaur d/o Ajmer Singh was obtained. Perusal of the said record reveal that Pritam Kaur went into multi organ failure and cardio-respiratory arrest on 17.4.2013 and could not be revived after resuscitation and was declared dead at 4:15 a.m. As per the final medical diagnosis, Pritam Kaur was a case of old C.V.A (Cerebrovascular accident), bed ridden state with pressure sores with unitary tract inflection with sepsis with septic shock. Pulmonary embolism was also there. It was well established that she was admitted on 15.4.2013 and thereafter died on 17.4.2013;

(v) The allegations levelled by Ikattar Singh that articles belonging to Pritam Kaur were taken away

after breaking the locks were also found to be false.

(vi) There was a property dispute between the sisters and brothers of Pritam Kaur and as such, they often levelled the allegations against each other and filed the case/applications with intention to put pressure on the other party;

(vii) Pritam Kaur had lodged FIR No.249/07 for the offence punishable under Section 302 read with Section 34, IPC, at Police Station, Division No.5, Ludhiana, alleging that murder of her brother Kuldeep Singh was committed by his nephew Sarabjit Singh sister-in-law Sukhdev Kaur, tenant Madan Lal and his son, Mohit. In the said case the cancellation report was presented; and

(vii) In the Will dated 19.2.2013 executed by Pritam Kaur regarding the house Ikattar Singh was described as husband of Pritam Kaur. On further verification, it came on record that during life time of Pritam Kaur, she and Ikattar Singh were claiming themselves to be brother and sister and after death how Pritam Kaur became the wife of Ikattar Singh. It was also pointed out that Pritam Kaur knew how to sign in English, therefore, there was no question of putting the thumb

impression on the alleged Will. In that regard, the record was collected from the bank.

Both the parties are levelling allegations against each other to grab the property of Pritam Kaur.

The matter was thoroughly inquired into by the police and came to the conclusion that the complaint filed by Ikattar Singh had no substance.

There is no doubt that if a complaint disclosing the commission of cognizable offence is presented before the police, in that eventuality the Station House Officer has no other option but to register the First Information Report against the culprits. Of course, if the allegations are found to be false, then he can proceed further in accordance with law. But the core question before this Court is as to whether without exhausting the alternative remedies available to the complainant, can he approach to the High Court by way of a petition under Section 482, Cr.P.C. or a writ petition under Article 226 of the Constitution of India. The said query was dealt with and answered by Hon'ble the Supreme Court in the matter of **Sakiri Vasu v. State of U.P.**, (2008) 2 SCC 409, wherein it was held as under:-

“25. We have elaborated on the above matter because we often find that when someone 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 CrPC. 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, first under Section 154(3) and Section 36 CrPC before the police officers concerned, and if that is of no avail, by approaching the Magistrate concerned 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) CrPC or other police officer referred to in Section 36 CrPC. 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) CrPC instead of rushing to the High Court by way of a writ petition or a petition under Section 482 CrPC. Moreover, he has a further remedy of filing a criminal complaint under Section 200 CrPC. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?*

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 CrPC 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 police officers concerned, and if that is of no avail, under Section 156(3) CrPC before the Magistrate or by filing a criminal complaint under Section 200 CrPC and not by filing a writ petition or a petition under Section 482 CrPC.

.28. 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.”

In **G.Arokiya Marie v. Superintendent of Police,** 2008 Criminal Law Journal 4257, it was held that the aggrieved persons, who complained of the commission of offences under the Indian Penal Code and the offences under other Acts, shall resort to Sections 154(3), 190 read with 156(3) and 200 of Cr.P.C., as the case may be. The inherent jurisdiction of the High Court shall not be invoked in those cases to redress their grievance, for alternative remedy as detailed above is very much available.

In the case of “**Mohit alias Sonu vs. State of U.P.**” 2013(3) RCR(Criminal) 673, Hon'ble the Supreme Court held that when there is specific remedy provided, the inherent power under Section 482, Cr.P.C., can not and should not be restored to.

After perusing the facts of the case, this Court is of the considered opinion that it is not an exceptional case where the

High Court should exercise its inherent powers for issuance of a direction to the police authorities for registration of the FIR and investigate the matter. The petitioner, if so advised, can take recourse to the alternative remedies available to him under law.

9. In view of above, there is no merit in the present petition and the same is hereby dismissed.

February 09, 2015
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(Naresh Kumar Sanghi)
Judge