

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

CRM-M-16716 of 2016.
Decided on:-13.05.2016.

Ravish Kumar.

.....Petitioner.

Versus

Union Territory, Chandigarh and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Simranjeet Singh, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed the present petition under Section 482 Cr.P.C. seeking directions to the respondents to take legal action on the complaints made by the petitioner against private respondents as they have allegedly been keeping his articles and goods without his consent.

Briefly stated, the petitioner is a programmer in PHP, MySQL, JavaScript, HTML and related technologies. In January 2014, Robert Pike, respondent No.4, contacted him as a client through a freelancing website named Elance and Skype. While working for respondent No.4, the petitioner sold a source code to him for which he paid \$ 15,000/- to the petitioner. As a return of the source code, the petitioner was also given ownership of 15%

shareholding in Enzoo Inc, a US company. Apart from the above, the petitioner worked for respondent No.4 on hired basis as a programming consultant for a period of 2-3 months for which the petitioner was paid by respondent No.4. However, for the work done by the petitioner for the month of April 2014, respondent No.4 has not paid his due. In May, 2014, respondent No.4 came to India and asked the petitioner to pay his hotel and travelling bills which were to be repaid to the petitioner. The petitioner stated to have paid those bills. Respondent No.4 dishonestly induced the petitioner to create a company in the name of the petitioner and one other person Kawalpreet Singh Cheema.

On 26.6.2014, the petitioner joined Enzoo IT Services Private Limited with salary of \$ 10,000/-. In January, 2015 ownership of Enzoo IT Services Private Limited was transferred to Enzoo Inc, a US company owned by respondent No.4. The petitioner was dishonestly induced by respondent No.4 that the petitioner will be paid a lump sum amount along with luxury car BMW to transfer the ownership of the company apart from salary of \$ 10,000/- which was to be paid to the petitioner from June, 2014 to November, 2015. Respondent No.5 is stated to have become the new Managing Director of Enzoo IT Services Private Limited and to cause loss to the petitioner by conspiring with respondent No.4 and his associates fired Kawalpreet Singh as Director of Enzoo IT Services Private Limited. The entire team of the petitioner was made to resign so that the petitioner was without any support in the company. They have also conspired with each

other that cost of the motorcycle which was owned by Enzo IT Services Private Limited should also be recovered from the salary of the petitioner.

Even after repeated requests, the petitioner was not paid his salary and dues. Rather, the private respondents have criminally intimidated threatened the petitioner that a false case of embezzlement, theft of property and tax fraud will be lodged against him on their behest. The petitioner made a complaint to the police but no action has been taken on his complaint till today, compelling the petitioner to file the present petition.

I have heard learned counsel for the petitioner.

The obvious prayer of the petitioner for taking legal action in the complaint made by him tantamounts to issue a direction to the official respondents for registering a case against the private respondents and this Court, while exercising its jurisdiction under Section 482 Cr.PC cannot issue such like directions as observed by Hon'ble Supreme Court in ***Sakiri Vasu Versus State of U.P. and others (2008) 2 SCC 409***. In the said case, Hon'ble Apex Court has held as under:

“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 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

36Cr.P.C. before the concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under Section 156(3).

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?”

In view of the aforesaid observations made by Hon'ble Supreme Court in ***Sakiri Vasu's case (supra)***, it is quite clear that the efficacious remedy is already available to the petitioner for the relief claimed in this petition.

Therefore, this Court does not find any merit in the present petition and the same is, accordingly, dismissed.

May 13, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE