

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

**CRM No.M-27468 of 2015 (O&M)**  
**Date of Decision: March 03, 2016**

Jagjeet Singh

...Petitioner

**VERSUS**

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.K.S.Bal, Advocate  
for the petitioner.

Mr.P.S.Grewal, Deputy Advocate General, Punjab  
for the respondent-State.

Mr.Ashish Aggarwal, Advocate  
for respondents No.5 to 7.

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**INDERJIT SINGH, J.**

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents for registration of FIR against respondents No.5 to 7, for making fraud, cheating and illegal harassment which is continuously faced by the petitioner.

Notice of motion was issued and learned State counsel as learned counsel for respondents No.5 to 7 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that reply has been filed by the

State on behalf of respondents No.1 to 4. In the reply, it is stated that the matter has not been reported to the police nor any representations have been received by them nor any representations are pending before the police. It is also stated that though the matter has not been reported to the police, yet upon receipt of copy of the petition and after going through the contents carefully, it has been found that dispute between the petitioner and private respondents is with regard to breach of agreement, which does not constitute any cognizable offence.

I have also gone through the Annexure P-3 i.e. complaint, stated to have been sent to the Commissioner, Amritsar, in which it is stated that the second party did not pay the remaining amount due to which, sale deed could not be executed and second party has also marked their attendance in the office. It is also stated by the complainant that they have committed fraud with him by not executing the registration of house in his name. It is also in this representation/complaint that complainant has also marked his attendance in the office of Suvidha Centre, Amritsar regarding above-said house and regarding that, since past one month, he has given a complaint at Police Station Sultanwind Amritsar, which has not been entertained/heard yet.

The perusal of the representation/complaint, rather shows that it is simply a breach of agreement to sell the house etc. There is nothing in this representation that from the very beginning the intention of other party was to cheat the petitioner-complainant. On

the face of it, the dispute looks of civil nature. Otherwise also, as per the judgment passed by the Hon'ble Supreme Court in **Sakiri Vasu v. State of U.P. and others, 2008 (1) R.C.R. (Cr.) 392** the petitioner has alternative remedies available to him, as held as under:-

*"11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police under Section 154 (3) Cr.P.C. by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned. If such an application under Section 156 (3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.*

*17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.*

*18. It is well-settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary to its execution.*

*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 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?*

*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.*

*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.”*

The law laid down in above judgment has also been relied upon by the Hon'ble Supreme Court in **T.C. Thangaraj v. V. Engammal and others, 2011 (3) R.C.R. (Cr.) 751.**

Learned counsel for the petitioner cited judgments passed by the Hon'ble Supreme Court in **Pratibha Rani vs. Suraj Kumar and another, 1985(1) RCR (Criminal) 539, Lalita Kumari vs. Govt. of U.P. and others, 2013(4) RCR (Criminal) 979, Mohindro vs. State of Punjab and others, 2001 AIR (SC) 2113, Ramesh Kumari vs. State NCT of Delhi and others, 2006(2) RCR (Criminal) 197 and Sundeep Kumar Bafna vs. State of Maharashtra and another 2014 (2) RCR (Criminal) 416.** I have gone through the all the above-cited judgments and the same having distinguished facts will not apply in the present case.

As the petitioner has alternative remedies as stated in the **Sakiri Vasu's case (supra)**, especially to approach the Judicial Magistrate, therefore, this petition cannot be entertained and the same is disposed of with liberty to the petitioner to approach the Magistrate to avail alternative remedies.

However, it is made clear that if the petitioner avails alternative remedy, then nothing stated above will constitute my opinion on merits of the dispute/case.

**March 03, 2016**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**