

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

**Criminal Misc. No. M-36030 of 2011 (O&M)
Date of Decision:-23.12.2016**

Jaspal Kaur and another

...Petitioners

Versus

State of Punjab and others

...Respondents

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

Present:- Mr. Rajesh Punj, Advocate
for the petitioners.

Mr. Gurinderjit Singh, DAG Punjab.

HARI PAL VERMA J.

Prayer in this petition filed under Section 482 Cr.P.C. is for direction to the respondents to register an FIR under Sections 307, 326, 323, 325, 452, 120-B IPC against the accused persons mentioned in para 12 of the petition.

Learned counsel for the petitioners states that though DDR No.29 dated 30.9.2011 was registered at Police Station Sadar, Jagraon but despite there being serious injuries, the police has not register the FIR. Learned counsel for the petitioner has argued that in view of the judgment passed in **Lalita Kumari vs. State of U.P. and others, 2013(4) RCR (Criminal) 979**, the respondents are under legal obligation to register the case. He has relied upon **Pyara Singh vs. State of Punjab 1999(2) RCR**

(Criminal) 863 to contend that in a cross case when both the parties have given different versions, the police to register case if averments made out offence and the police cannot sit and decide as to which version out of the two is correct version.

Reply on behalf of respondents No.1 to 3 has already been filed.

Learned State counsel on the strength of said reply has submitted that on the statement of Chand Singh Sarpanch of Village Dalla, FIR No.188 dated 30.9.2011, under Sections 295 and 120-B IPC has been registered at Police Station Sadar, Jagraon against the petitioners. During the course of investigation of the case, the allegations of the petitioners made in the complaint (Annexure P-9) were also inquired into by the police but these allegations, which were made against Charan Singh Sarpanch and other in the form of counter allegations were found to be false during the course of inquiry. During the course of inquiry, the petitioners party could not produce any witness or any proof regarding emputation of finger of petitioner Jaspal Kaur and Jaspal Kaur has inflicted the injuries herself or through some person on little finger of her hand so as to get a cross case register against the opposite party. No fact was found regarding injuries on her person at the spot.

I have heard learned counsel for the parties.

Hon'ble Apex Court in *Sakiri Vasu vs. State of Uttar Pradesh and others; 2008 (1) RCR (Criminal) 392* has observed that instead of rushing to the High Court in case of non registration of FIR by the police in

a cognizable offence, an aggrieved person should avail the remedy by lodging a complaint under Section 200 of the Code or could adopt any other alternative remedy. It would be appropriate to refer paragraph nos. 26 and 27, which are relevant for the determination of question involved in the instant petition. The same reads 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?”

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.”

In view of the judgment passed in ***Sakiri Vasu's case (supra)***, no such direction can be issued even otherwise the matter has been inquired into by the Deputy Superintendent of Police, Jagraon and he has submitted his detailed inquiry report wherein the petitioners have failed to substantiate the allegations made in their complaint.

Accordingly, the present petition is dismissed.

December 23, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned : Yes

Whether Reportable : Yes / No