

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

**CRM No.M-45016 of 2016 (O&M)
Date of Decision: December 16, 2016**

Mukesh Kumar and others

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Ruhani Chadha, Advocate
for the petitioners.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against State of Punjab and other respondents for directing respondents No.2 to 6 to protect life and liberty of the petitioners and to conduct fair and impartial investigation in case FIR No.166 dated 01.10.2015 under sections 25, 27 and 54-A of the Arms Act and Sections 323, 341, 506 and 34 IPC registered at Police Station Daba, District Ludhiana.

I have heard learned counsel for the petitioner and have gone through the record.

I have gone through the present petition and I do find that there is any serious threat to the life of the petitioners. Learned counsel for the petitioner argued that investigation is not being conducted fairly and properly. As regarding this grievance that investigation is not being

conducted fairly and properly, the petitioner has the remedy to approach

Illaqa Magistrate, who has ample powers to supervise and even monitor the investigation. The Hon'ble Supreme Court in **Sakiri Vasu v. State of U.P. and others, 2008 (1) R.C.R. (Cr.) 392** has held that the petition under Section 482 Cr.P.C. should not be entertained in routine and it is held as under:-

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.**

As the petitioners have alternative remedies as stated in the above-said case, especially to approach the Judicial Magistrate, therefore, this petition cannot be entertained and the same is dismissed with liberty to the petitioners to approach the Magistrate to avail alternative remedies.

December 16, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No