

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-8151 of 2016

.....

Date of decision:15.3.2016

Subhash Chand

.....Petitioner

v.

State of Haryana and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Vivek Khatri, Advocate for the petitioner.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for setting aside the impugned order dated 28.1.2016 (Annexure-P.6) passed by learned Judicial Magistrate Ist Class, Hisar, whereby the prayer of the petitioner for sending the complaint (Annexure-P.5) under Section 156(3) Cr.P.C. for registration of the case has been declined in an illegal and arbitrary manner as well as by ignoring the settled proposition of law.

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

From the record, I find that the complaint has been filed by Subhash Chand against Jai Parkash and Savita under Section 156(3) Cr.P.C. for registration of FIR for the offences under Sections 420, 465, 467, 468,

471, 120-B and 506 IPC at Police Station Agroha.

The learned Judicial Magistrate Ist Class, Hisar vide order dated 28.1.2016 after hearing found that there are no sufficient grounds for sending the complaint under Section 156(3) Cr.P.C. to the Police Station, Agroha, for registration of the case. Hence, the request for sending the complaint under Section 156(3) Cr.P.C. was declined and the cognizance of the complaint was taken and the complaint was adjourned for preliminary evidence for 20.2.2016.

I have also gone through the averments made in the complaint. The main averments are that Jai Parkash-accused is the brother of the complainant, who had opened a private school and the children of the complainant are studying in that school. The only allegation is that this school has no recognition from the U.G.C. and the accused is admitting the children upto 10+2 in illegal manner. In no way, it can be held that these facts are necessary to be investigated by the Police. The complainant can produce the evidence by way of preliminary evidence as this complaint was adjourned for preliminary evidence by the Court. It is the discretion of the Court either to send the complaint for registration of the FIR where the Court feels from the facts of the case that investigation is essential in the case and/or the Court can take cognizance where the investigation is not essential and the complaint can produce the evidence before the Court without any investigation by the Police. From the facts of the complaint and the order passed by the Court, I find that no illegality has been committed by the Court by passing the impugned order. Therefore, the impugned order

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dated 28.1.2016 (Annexure-P.6) passed by learned Judicial Magistrate Ist Class, Hisar is upheld.

Finding no merit in the present petition, the same is dismissed.

March 15, 2016.

(Inderjit Singh)
Judge

hsp