

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

Criminal Misc. No.M- 11587 of 2017(O&M)

Date of Decision: May 15 , 2017.

Shrikant Surajdev Tiwari PETITIONER (s)

Versus

State of Haryana and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Bhavnik Mehta, Advocate
for the petitioner.

LISA GILL, J.

CRM No.12488 of 2017

Legible copy of Annexure P3 is taken on record subject to just exceptions.

Application is disposed of.

CRM No.16230 of 2017

Annexures P6 to P8 are taken on record subject to just exceptions.
Filing of certified copies thereof is dispensed with.

Application is disposed of.

CRM No.M-11587 of 2017

The petitioner prays for a direction to respondent No.2 – Superintendent of Police, Kurukshetra to take appropriate legal action against respondent No.3 and for registering an FIR pursuant to complaint dated 01.12.2015 (Annexure P3) addressed to the Director General of Police, Maharashtra with a copy thereof to the Chief Secretary, Haryana and the

Superintendent of Police, Kurukshetra.

In this complaint addressed to the Director General of Police, Maharashtra, it is mentioned that the petitioner retired as a Master Chief Electrical Artificer (Power) Ist Class on 31.08.1995 from the Indian Navy. He thereafter joined Sterlite Industries at Pune and served there till June 1998. Thereafter, the petitioner joined Reliance Shipping at Hazira in Surat and worked there till the end 2004. The petitioner is married to Smt. Chandrawati. They have three children – a son and two daughters. After retirement from the Indian Navy, the petitioner was living with his wife and children at Pune. His wife and in-laws' family, it is submitted, were in contact with respondent No.3 and they knew him long before the petitioner came in contact with him. It is alleged that when the petitioner was away at Surat, his wife developed illicit relations with respondent No.3 of which he came to know in June, 2009. It is stated that the petitioner was forced to shift with his entire family to Kurukshetra in March/April 2003. He stayed there alongwith his wife and daughters till 16.08.2008. Allegations have been raised by the petitioner against his wife to the extent that she would threaten and pressurize him to part with his hard-earned money and property at the behest of respondent No.3. It is stated that the petitioner was made to act according to the whims and fancies of respondent No.3, who manipulated his wife and children. He however managed to free his daughters from the influence of respondent No.3. The petitioner proceeded to Ballia in Uttar Pradesh with them in August, 2008. Reference is made to certain incidents which took place at Ballia (UP), Pune and one incident which occurred on 09.03.2010 at Kurukshetra. Allegations are raised regarding attempt to kidnap one of his daughters. It is stated that the petitioner somehow managed to marry

off his daughters in 2009 and 2010. Various cases are stated to be pending against the petitioners in the States of Uttrakhand, Maharashtra and Uttar Pradesh. Respondent No.3 is stated to be the main conspirator and kingpin of all the occurrences mentioned in the complaint. It is expressed that the life of the petitioner is also in danger. Furthermore, his wife has deserted him without any reason and has initiated various proceedings against him. This has been done at the instance of respondent No.3, as per the averments in the said complaint.

Learned counsel for the petitioner vehemently argues that the petitioner's daughters were subjected to treatment of adverse kind at the hands of respondent No.3. His daughters, though admittedly married in the year 2009 and 2010, have now garnered courage to speak out and come in the open against respondent No.3. Reference is made to affidavit dated 08.03.2017 (Annexure P1) executed by the petitioner's daughter. It is further submitted that the so-called investigations carried out on his complaint are completely false, incorrect and motivated. Respondent No.3, it is submitted, is an extremely influential person therefore, the police is not taking any action against him. Hence, the petitioner has approached this Court praying for action to be taken pursuant to his complaint (Annexure P3).

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

It is not in dispute that complaint dated 01.12.2015 is addressed to the Director General of Police, Maharashtra with copy thereof to the Chief Secretary, Haryana and the Superintendent of Police, Kurukshetra. The petitioner has appended certain investigation reports carried out pursuant to submission of

complaints by him. The said reports are attached as Annexure P4 (Collectively) with the present petition. As per report dated 20.01.2016 addressed to the Senior Superintendent of Police, District Haridwar from the Police Station Kotwali, City Haridwar, it is mentioned that the allegations levelled by the petitioner have been found to be false and baseless. The petitioner, it is stated, habitually gives false complaints and has been doing so since the year 2010.

As per report dated 30.01.2016 from the Police Station Sadar Thanesar, District Kurukshetra (Haryana), it is mentioned that the present petitioner seeks to pressurize respondent No.3 and others with regard to the complaints registered against him as well as his son Dhananjay Tiwari. It is further mentioned that the petitioner was repeatedly submitting various complaints however, no truth has been found in the same. Reference was also made to other reports after investigation was carried out at the instance of the present petitioner and his son, specifically investigation reports of the Deputy Commissioner, Pune, District Magistrate, Ballia (UP), the Superintendent of Police, Kurukshetra (Haryana) and the police at Haridwar.

It is not in dispute that litigation is pending between the petitioner and his wife since the year 2009. Criminal cases have been registered against the petitioner at Haridwar, Pune as well as in the State of Haryana. The petitioner's daughters were married off in the years 2009 and 2010. The matter was investigated by the police authorities at various places. In case, the petitioner is aggrieved therefrom, there are efficacious alternate remedies which are available to him.

It has been held by the Hon'ble Supreme Court in **Sakiri Vasu v.**

State of U.P., 2007(5) Law Herald (Supreme Court) 3910 as under:-

“24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and/or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper registration including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision.

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) Cr.P.C.

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.”

Keeping in view the facts and circumstances of the case but without expressing any opinion on the merits thereof, I do not find any exceptional or extra-ordinary ground which calls for interference by this Court for issuance of a direction to respondent No.2 as prayed for.

Accordingly, this petition is dismissed with liberty to the petitioner to avail alternate remedy/remedies which may be available to him in accordance with law.

(LISA GILL)
JUDGE

May 15 , 2017.
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No