

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Criminal Misc. No.M- 23636 of 2017(O&M)

Date of Decision: July 7 , 2017.

Gurdeep Kaur

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. A.S.Barnala, Advocate
for the petitioner.

LISA GILL, J.

This petition has been preferred seeking direction to the official respondents to take action on the petitioner's representation dated 05.06.2016 (Annexure P1) and for registration of an FIR under Sections 406/498A IPC.

It is to be noted that this petition has been filed through the petitioner's mother being Special Power of Attorney Holder. The petitioner herself is residing in Italy. Her husband is also residing in Italy. Representation dated 05.06.2016 has also been moved on behalf of the petitioner by her mother.

It is submitted that as per the opinion given by the Assistant District Attorney, Barnala, a prima facie case for the offences punishable under Sections 406/498A IPC is made out against the accused however, no action is being taken by the police authorities.

Having heard learned counsel for the petitioner and going through the file, it is felt that the petitioner has appropriate alternate remedies available to her rather than invoking the jurisdiction of this Court under Section 482 Cr.P.C.

by way of filing the present petition. Reference in this regard can be made to the judgment of the Hon'ble Apex Court in Sakiri Vasu v. State of U.P., 2007(5)

Law Herald (Supreme Court) 3910. Relevant paragraphs reads 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, no ground is made out for interference by this Court at this stage. However, the petitioner is at liberty to avail any other remedy/remedies as may be available to her.

Accordingly, petition is disposed of.

(LISA GILL)
JUDGE

July 7 , 2017.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No