

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-44086 of 2017

.....

Date of decision:20.11.2017

Gurlal Singh and another

...Petitioners

v.

State of Haryana and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Mahir Sood, Advocate for the petitioners.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed by petitioners under Section 482 Cr.P.C. with a prayer to conduct fair and impartial investigation of the case bearing FIR No.146 dated 24.8.2017 (Annexure-P.1) registered for the offences under Sections 323, 294, 341, 506 and 34 IPC at Police Station Jakhal, District Fatehabad, keeping in view the facts and circumstances mentioned in the present petition. It has been further prayed that directions may kindly be issued to respondent No.2 to take appropriate legal steps/action on the representation dated 4.9.2017 and 18.9.2017 (Annexures-P.4 and P.7) filed by petitioner No.1 and to protect the life and liberty of the petitioners and their families at the hands of private respondents.

I have heard learned counsel for the petitioners and have gone

through the record.

At the time of arguments, learned counsel for the petitioners mainly argued that the Police is not investigating the case registered under above mentioned FIR properly and has not arrested the accused and direction be issued for their arrest. On this argument, I find that it is settled law that Courts cannot interfere in the investigation. It is for the Investigating Officer to collect evidence against any of the accused or he may find from the investigation that he is innocent or not. Therefore, the Court cannot direct the Investigating Officer to conduct the investigation in a specific way. If the petitioners are aggrieved from the fact that investigation is not being conducted properly, then they can approach Illaqa Magistrate as per the law laid down by the Hon'ble Supreme Court in Sakiri Vasu v. State of U.P. and others, 2008 (1) RCR (Cr.) 392 (SC), in which it was observed as under:-

“11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned. If such an application under Section 156

(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.

17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C, though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

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.”

The law laid down in this 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 and held as under:-

“It should also be noted that Section 156 (3) of the Code of Criminal Procedure provides for a check by the Magistrate on the police performing their duties and where the Magistrate finds that the police have not done their duty or not investigated satisfactorily, he can direct the Police to carry out the investigation properly and can monitor the same.”

As regards threat to life and liberty of the petitioners, neither any DDR has been placed on record after the registration of this FIR nor any particulars of any threat have been given. There is no serious threat to the life and liberty of the petitioners, therefore, no ground is made out for giving direction to provide any security for the protection of life and liberty of the petitioners.

Therefore, keeping in view the law laid down by the Hon'ble Supreme Court in Sakiri Vasu v. State of U.P. and others (supra) and T.C. Thangaraj v. V. Engammal and others (supra), this petition under Section 482 Cr.P.C. is not liable to be entertained and the same is disposed of with

liberty to the petitioners to avail the alternative remedy before the Magistrate etc. as held in these cases, who has enough powers under Section 156(3) Cr.P.C. to supervise the investigation. Even the Magistrate can monitor the investigation as held by the Hon'ble Supreme Court in the above mentioned cases.

November 20, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No