

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

242

CRM-M-19976-2016

Date of Decision:10.09.2018

Asha Rani

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. S.S. Rana, Advocate,
for the petitioner.

Mr. Tanvir Joshi, A.A.G., Punjab,
for the respondents.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for issuance of directions to respondent Nos.2 and 3 to take appropriate action on the complaints of the petitioner dated 30.04.2016 (Annexure P-1) and dated 03.05.2016 (Annexure P-2) on the basis of MLR dated 30.04.2016 (Annexure P-3) with a further direction to register cross-version case against the accused persons.

On the statement of Raj Kumar, FIR No.13 dated 03.05.2016 under Sections 324, 452, 34 IPC (Section 326 IPC was added later on) was registered at Police Station Taragarh, District Pathankot against the petitioner and her family members. The petitioner has also moved the complaints (Annexures P-1 and P-2) addressed to the SHO and SSP,

Pathankot, respectively.

Reply on behalf of the respondents has already been filed.

The police has inquired into the allegations submitted by the petitioner in her complaints. Paragraph 2 of the reply submitted by way of affidavit of Sh. Kuldip Singh, Deputy Superintendent of Police (Rural) Pathankot, on behalf of the respondents reads as under:-

“That the petitioner came present at P.S. Taragarh on 29.05.2016 and produced her medico legal report and got her statement recorded that she is having three children and her husband, Trilok Chand is Ex-Sarpanch of Village. On 30.04.2016, she was going to her haveli as per routine for milking the milk of her buffalo and when reached outside haveli, then time will be about 8.00 A.M. when Saurav S/o Raj Kumar holding “Dang”, Raj Kumar S/o Brita Ram holding “Datar”, Daya Pal S/o Gobind Ram holding Hockey, Tarun Kumar S/o Daya Ram holding “Datar” and Yash Rani w/o Raj Kumar were standing. Raj Kumar and his wife Yash Rani had cut the plastic pipe carrying their water before her and when she stopped them from doing so, then Daya Pal raised a lalkara saying hold her and teach her lesson for taking enmity with them, then Saurav hit his dang blow from edge on right side of her jaw and Raj Kumar gave a blow of reverse side of his datar which hit her wrist of right arm and under elbow and then he gave another blow of his reverse datar which hit on triceps of right arm. Daya Pal gave a blow of his hockey which hit her which hit on the calf of her left leg, then Tarun gave a blow of his datar from reverse side which hit her on the calf of her right leg and she fell down on the ground and Yash Rani hit with her heels on her waist while laying down on the ground and swayed her by holding from her hairs and she raised alarm of Maar Ditta and Maar Ditta and the assailants ran away from the spot with their

weapons saying her, “Kuttiya-Chamariye-Haramjadiye do whatever she could do” and her husband also came at the spot who arranged for the vehicle and took her to Civil Hospital, Narot Jaimal Singh where she was medico legally examined. The injuries no.2 to 6 was stated to be simple and the injury Nno.1 was kept under observation. The offences under Section 323 IPC has been found to have committed which is non-cognizable and DDR No.13 dated 29.05.2016 was entered to this effect. The matter is being inquired regarding allegations of caste and suitable legal action will be taken as per inquiry and report of radiologist regarding injury no.1 which is kept under observation. The contention of the petitioner that the police have not taken any action on the application of the petitioner is misconceived, unfounded and the police have been conducting the investigations of the matter diligently keeping the versions of both sides. The police have taken the legal actions as per law and rules and conducting further investigations in the matter as per law and procedure as such the present petition is not maintainable against the answering respondents and liable to be dismissed.”

The police has found that offence under Section 323 IPC was committed which is non-cognizable, for which DDR No.13 dated 29.05.2016 was entered.

Learned State Counsel on instructions from ASI Tarsem Singh states that the matter has been looked into and only the offence under Section 323 IPC has been found.

Hon'ble Supreme Court in **Sakiri Vasu Versus State of U.P. and others (2008) 2 SCC 409** has held as under:

“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).

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?”

In view of the aforesaid observations made by Hon'ble Supreme Court in **Sakiri Vasu's case (supra)**, as well as the reply submitted on behalf of the respondents, it is apparent that no such direction can be issued by this Court under Section 482 Cr.PC as the efficacious remedy is already available to the petitioner for the relief claimed in this petition.

Therefore, this Court does not find any merit in the present

petition and the same is, accordingly, dismissed. However, the petitioner is at liberty to avail the appropriate remedy as available under the law.

September 10, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No