

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

CRM-M-34955 of 2018.

Decided on:-September 25, 2018.

Mohd. Yusuf.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

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

Present:- Mr. Sanjiv Sheoran, Advocate
for the petitioners.

HARI PAL VERMA, J.

Through the instant petition filed under Section 482 Cr.P.C., petitioner Mohd. Yusuf has sought quashing of the order dated 15.05.2018 (Annexure P-6) vide which the learned Sub-Divisional Judicial Magistrate, Ferozepur Jhirka, District Mewat has dismissed the application filed by the petitioner under Section 156(3) Cr.P.C.

The impugned order dated 15.05.2018 passed by learned Magistrate reads as under:

“Present complainant presented before this court being Illaqa Magistrate. The complainant has requested to send the same to the SHO P.S. F.P. Jhirka U/s 156(3) of Cr.P.C. to register the case against the accused person. Perusal of the case file shows no justified ground to send the file from SHO for registration the case are made out as the matter before the complaint and proposed accused seem to be of civil nature. Moreover, admittedly civil suit between complainant and proposed accused pertaining to agreement to sell is still pending in the Court provided over by undersigned. Hence request for

sending the file to the SHO P.S. F.P. Jhirka u/s 156 (3) Cr.P.C. is hereby declined. Complaint be checked and registered. The complainant is directed to lead his preliminary evidence. No CW is present. Adjournment sought by learned counsel for the complaint. Case is adjourned to 11.07.2018 for evidence of the complainant at own responsibility.”

Having heard learned counsel for the petitioner, it is not in dispute that a civil suit between Juhuruddin father of the petitioner and respondents No.2 and 3, namely, Iqbal son of Munshi and Mubin son of Khan is pending before learned Additional Civil Judge (Senior Division), Ferozepur Jhirka. Thus, learned Magistrate has rightly observed that there is no justified ground to send the file to the SHO for registration of the case as the matter seems to be of civil nature. However, while declining the prayer of the petitioner for sending the file to SHO Police Station Ferozepur Jhirka under Section 156(3) Cr.P.C., the trial Court has directed the petitioner-complainant to lead his preliminary evidence. Therefore, the complaint of the petitioner has been treated as a private complaint.

In view of the above, this Court finds that there is no illegality in the impugned order dated 15.05.2018 passed by learned Sub-Divisional Judicial Magistrate, Ferozepur Jhirka and the present petition, being devoid of any merit, is dismissed.

(HARI PAL VERMA)
JUDGE

September 25, 2018
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No