

277.

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

CRM-M-43740-2017 (O&M)

Date of decision:16.10.2018.

DR HARI B BIDASARIA

... Petitioner

Versus

STATE OF PUNJAB AND ORS.

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.Subhash Chander Patial, Advocate,
for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is for issuance of direction to respondent No.3 i.e. Senior Superintendent of Police, Nawanshahr to comply the order dated 07.07.2017 (Annexure P-2) passed by this Court.

On 07.07.2017 in CRM-M-7948-2017 filed by the petitioner, this Court had passed the following order:-

“CRM-20262-2017

This is application for placing on record Annexure P-5 and for preponing the hearing of the main petition.

Heard.

The application is allowed and Annexure P- 5 is taken on record and the petition is taken up for hearing today itself.

CRL. MISC. No.M-7948 OF 2017

Notice of motion.

Mr. Ramandeep Sandhu, Sr. D.A.G. Punjab accepts notice on behalf of the State.

Rule.

Heard forthwith with consent of learned counsel for the parties.

The petitioner appears in person. He submits that he is a Doctor by profession and practicing in United States of America.

I have perused the petition and the prayer made therein.

In my opinion, looking to the entire matter and relief sought in the petition, there is no point in asking the petitioner to appear repeatedly before this Court as the petition can be disposed of with certain directions.

Following are the prayers of the petitioner in this petition:

1. That the present petition may kindly be allowed and appropriate direction to respondents No.1 and 2 to take action against respondent No.5 and 6 in accordance with law, may kindly be issued, in the interest of justice.
2. It is further prayed to direct respondent No.2 to protect the life and liberty of the petitioner while the petitioner stays in State of Punjab for the purposes of litigation as the petition is under constant threat to life and liberty.

I have perused the representation (Annexure P-2) dated 21.10.2016 with the assistance rendered by Mr. G.S. Sawhney, Advocate who is present in this Court in some other matter. In my opinion, respondent No.3-Senior Superintendent of Police, Nawanshahr should look into the grievances made by the petitioner in the aforesaid representation and then proceed in accordance with law by hearing the petitioner if necessary. The petitioner shall present his entire petition to respondent No.3 within a period of one week. The petition is thus disposed of with the above direction.”

The spirit of the aforesaid order does reflect that the Senior

grievances made by the petitioner in the representation.

Vide order dated 17.11.2017, this Court had adjourned the case for filing the status report in the case.

Pursuant to aforesaid order dated 17.11.2017, status report had been filed by way of affidavit of Manwinder Singh, PPS, Superintendent of Police (Investigation), SBS Nagar, Punjab, on behalf of respondents No.1 and 2. Another status report has also been filed by way of affidavit of Satinder Singh, PPS, Senior Superintendent of Police, SBS Nagar on behalf of respondent No.3, which is the verbatim copy of the earlier one. The status reports suggests that representation dated 14.07.2017 has thoroughly been inquired into by the police and no cognizable offence has been made out against any person including respondents No.5 to 10. Accordingly on 22.09.2017 the said representation had been ordered to be filed.

Virtually the prayer of the petitioner is for issuance of directions to the official respondents to act against the private respondents in accordance with law and to protect his life and liberty. The concise prayer of the petitioner is for issuance of a direction to respondents-police for registration of a case, which this Court is afraid to issue such direction under Section 482 Cr.P.C.

For the similar relief as being prayed by the petitioner, the 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 of the Apex Court in **Sakiri Vasu's case** (supra), and considering the status reports submitted by respondents No.1, 2 & 3, 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 to avail for the relief sought 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 law.

Since the main petition has been dismissed, no separate order is required to be passed in the criminal miscellaneous application (s), if any.

(HARI PAL VERMA)
JUDGE

16.10.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No