

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

CRM-M-45233-2016

Date of Decision:01.08.2018

Vijay Kumar

... Petitioner

Vs.

Station House Officer and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Mohit Garg, Advocate for the petitioner.

Ms. Ashima Mor, Advocate for the U.T. Chandigarh.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has sought for the following relief:

“Directing the respondent No.1 to register First Information Report (FIR) of the petitioner on the complaint dated 20.08.2016 (Annexure P-2) involving offences of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amended Act, 2015 and various Sections of IPC against the accused persons. Further prayer to give direction for registration of case U/s 4(2) (b) against the respondent No.3 for not registering FIR of the complaint dated 20.08.2016 of the petitioner.”

2. Learned State counsel while resisting the claim of the petitioner submitted that this is 3rd round of complaint. One of the grievance of the petitioner is that inquiry has not been held by Deputy Superintendent of Police or the officer of above rank as required as per law. Whereas inquiry has been held by the Sub Inspector.

3. How the authorities are required to act upon a complaint in respect of SC/ST Act has been dealt by the Supreme Court in the case of

Dr. Subhash Kashinath Mahajan v. State of Maharashtra and another;

AIR 2018 SC 1498 while holding as under:

“79.3 In view of acknowledged abuse of law of arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the appointing authority and of a non-public servant after approval by the SSP which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinised by the Magistrate for permitting further detention.

79.4 To avoid false implication of an innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated.”

4. Competent authority is hereby directed to take necessary action in terms of the guidelines issued by the Supreme Court in the aforesaid decision within a period of two months from today.

5. Petition stands disposed of accordingly.

01.08.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**