

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

CRM-M-45425 of 2018.
Decided on:-October 15, 2018.

Kulwant Singh.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. Baljit Singh Aliana, Advocate
for the petitioner.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is for issuance of directions to the respondents No.1 to 3 to take action and to register an FIR against respondents No.4 to 6 as the petitioner first approached the SHO under Section 154 Cr.PC, later on the higher authority of police i.e. S.S.P. under Section 154(3) Cr.PC and then the Illaqa Magistrate Guru Harsahai under Section 156(3) Cr.PC, but an FIR was not registered.

From the perusal of the order dated 11.07.2017 passed by learned Judicial Magistrate 1st Class, Jalalabad(W), it is apparent that though the petitioner has earlier filed a complaint under Section 156(3) Cr.PC, but the same was dismissed as withdrawn. Therefore, once the complainant got his statement recorded before the Illaqa Magistrate to withdraw his complaint due to some typographical mistakes and undertook to file a fresh complaint under

Section 156(3) Cr.PC, this Court finds that the petitioner can avail the remedy as observed by learned Illaqa Magistrate.

Even otherwise, 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?”

Similar view has also been taken by Hon'ble Madras High Court in ***Sugesan Transport Private Limited Versus The Assistant Commissioner***

of Police 2016(5) CTC 577 and K. Raghupathy Versus The Commissioner of Police, Greater Chennai, Vepery, Chennai and another 2017 (3) MLJ (Criminal) 449.

In the present case, prayer made by the petitioners is nothing but for issuance of a direction to the official respondents for registration of an F.I.R. against the accused. However, in view of the aforesaid observations made by Hon'ble Supreme Court in ***Sakiri Vasu's case (supra)***, ***Sujesan Transport Private Limited's case (supra)*** and ***K. Raghupathy's case (supra)***, it is apparent that no such direction can be issued by this Court under Section 482 Cr.P.C. 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.

October 15, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No