

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

CRM-M-5249 of 2019.

Decided on:- February 04, 2019.

Gurbinder Kaur.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. A.P. Kaushal, 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 official respondents No.2 to 4 to protect the life and liberty of the petitioner and minor children at the hands of private respondents No.5 to 7 and to take action against them for cheating her and fraud committed upon her.

Learned counsel for the petitioner states that the petitioner was married with respondent No.5 on 27.02.2003 and out of the wedlock, one daughter Pavneet Kaur and one son Prabveer are born, who are living with the petitioner-wife. The respondent No.5-husband has extra-marital affairs with another lady i.e. respondent No.7 Harpreet Kaur. The respondent No.5-husband has thrown the petitioner out of her matrimonial home along with children. The petitioner had approached the police authorities many times, but respondent No.5 is an influential person and the local police is managed by him and thus helping him. The police is not ready to take any action against

them. He has referred to the complaints Annexures P-1 to P-3 made by the petitioner against private respondents No.5 to 7 to the police authorities.

I have heard learned counsel for the petitioner.

In the complaints Annexure P-1 to P-3 attached with the petition, the petitioner has prayed to take strict legal action against the private respondents No.5 to 7. Thus, virtual prayer of the petitioner is for registration of FIR against the accused.

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, under the garb of the prayer of seeking protection of life and liberty, the petitioner intends to seek issuance of a direction for registration of the FIR against private respondents No.5 to 7. 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.

In view of the above, the present petition stands dismissed.

(HARI PAL VERMA)
JUDGE

February 04, 2019
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No