

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-21245 of 2019

Date of Decision: 09.05.2019

Harpreet Kaur

...Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

Present:- Mr. Bikramjit Aroua, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

Petitioner-Harpreet Kaur has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for issuance of appropriate directions to respondents no.1 and 2 to protect life and liberty of the petitioner and her family from the brutality of constant threat of false implication under the stringent provisions of NDPS Act, cheating etc. at the hands of respondents no.3 to 9 as well as other police officials of District Tarn Taran for not fulfilling their demand of illegal gratification of Rs.15 lacs. Further direction has been sought to ensure that no physical harm and harassment be caused to the petitioner and his family members by calling them to police station in violation of the provisions of Section 160 CrPC and Article 21 of the Constitution of India, without prior notice of at least ten days. A further direction has been sought to direct respondent no.1 to

hand over the enquiry/investigation to CBI or to constitute Special Investigation Team, to prosecute the guilty police officials who had detained the petitioner from 23.03.2019 to 03.04.2019 at different places.

I have heard learned counsel for the petitioner.

If the prayers made by the petitioner are summarised, it would lead for nothing but a direction to the police to register an FIR against the private respondents.

The record reveals that earlier, father of the petitioner namely Hardial Singh had filed a petition i.e. **CRWP-321-2019 Hardial Singh Vs. State of Punjab & ors.**, under Article 226 of the Constitution of India read with Section 482 CrPC for issuance of a writ in the nature of *Habeas Corpus* or any other similar writ/order or direction for release of the petitioner-Harpreet Kaur from the illegal confinement/detention of the police officials of District Tarn Taran and this Court vide order dated 05.04.2019 had disposed of the said criminal writ petition, having been rendered infructuous, while passing the following order:-

“Prayer in this petition is for issuance of a writ in the nature of habeas corpus for releasing detenue Harpreet Kaur, daughter of the petitioner, from the illegal custody of respondent No.3.

In pursuance of the order dated 27.03.2019, the Warrant Officer has submitted a report that on visit of the premises of CIA Staff, Tarn Taran, the detenue was not found there.

Detenue Harpreet Kaur is present in the Court and is identified by SI Manmohan Singh. On a Court query, she states that she has no grievance against any person.

In view of the above, this petition is rendered as infructuous.”

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 an FIR against private respondents No.3 to 9. 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.

If the petitioner has any grievance that her FIR has not been registered by the police station or her grievance has not been redressed by the police, her 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 that her 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 petition under Section 482 Cr.P.C. Moreover she has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. But in the case in hand, the petitioner without availing the alternative remedies available to her, has rushed to the High Court for redressal of her grievances. Moreover, in CRWP-321 of 2019 *Hardial Singh Vs. State of Punjab*, the petitioner had appeared before this Court (as is clear from the order dated 05.04.2019 passed by this Court) and had submitted that she had no grievances against any person.

Therefore, in view of order dated 05.04.2019, as extracted above, as well as averments made in this petition, this Court finds that in case the petitioner has any grievance, she has remedy to avail under the law. In any case, considering the order dated 05.04.2019 passed by this Court in CRWP-321 of 2019 *Hardial Singh Vs. State of Punjab*, no such direction can be issued under Section 482 CrPC.

Accordingly, the present petition is dismissed.

May 09, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No