

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

**CRM-M-48302-2019
Date of decision: 14.11.2019**

Anil Kumar

.....Petitioner

Versus

State of Haryana & others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rohit Mittal, Advocate for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

Prayer in this petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C.") is for directing respondents No.2 and 3 for registration of FIR against respondent No.4 under Sections 420, 406 and 506 of the Indian Penal Code, 1860.

In Sakiri Vasu Vs. State of U.P. and others, 2008(1)

RCR(Crl.) 392, the Hon'ble Supreme Court has held as under:-

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by

filing a writ petition or a petition under Section 482 Cr.P.C.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.

29. In Union of India vs. Prakash P. Hinduja and another 2003 (6) SCC 195 (vide para 13), it has been observed by this Court that a Magistrate cannot interfere with the investigation by the police. However, in our opinion, the ratio of this decision would only apply when a proper investigation is being done by the police. If the Magistrate on an application under Section 156(3) Cr.P.C. is satisfied that proper investigation has not been done, or is not being done by the officer-in-charge of the concerned police station, he can certainly direct the officer in charge of the police station to make a proper investigation and can further monitor the same (though he should not himself investigate).”

Learned counsel for the petitioner seeks permission to withdraw the petition with liberty to file a complaint before the Magistrate with application under Section 156(3) of the Cr.P.C.

Dismissed as withdrawn with liberty as aforesaid.

(ARUN KUMAR TYAGI)
JUDGE

14.11.2019
Vinay

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No