

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

107

CRM-M-22265-2020

Date of decision: 24.08.2020

Meena Khosla

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Deepak Arora, Advocate for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.") for issuance of directions to respondents No.2 and 3 for registration of criminal case under Sections 406, 498-A and 120-B of the Indian Penal Code, 1860 (for short, "IPC") against respondents No.4 to 7 for subjecting her to cruelty and misappropriation of her dowry articles.

2. Briefly stated, the petition has been filed on the averments that the marriage of the petitioner was solemnized with respondent No.4 on 06.04.2018 as per Sikh rites and ceremonies at Ghuman Palace, Mahilpur, District Jalandhar. At the time of marriage, the parents of the petitioner had spent amount of Rs.15,00,000/- while meeting various demands as well as performing other rituals/ceremonies. Respondent No.4-husband, respondent No.5-father-in-law, respondent No.6-mother-in-law and respondent No.7-brother-in-law of the petitioner were also entrusted with gold articles as mentioned in the petition. Respondents No.4 to 7 subjected the

petitioner to cruelty and turned her out of the matrimonial house for not meeting their demands and misappropriated her dowry articles. The petitioner made representations including representation dated 01.07.2020 to respondents No.2 and 3 who have not taken any action on the same.

3. I have heard learned counsel for the petitioner and perused the record.

4. Learned counsel for the petitioner has submitted that the petitioner made a detailed representation dated 01.07.2020 to respondent No.2-Commissioner of Police, Jalandhar but he has not taken any action on the same. Respondent No.2 may be directed to expeditiously consider her representation dated 01.07.2020 and take appropriate legal action against respondents No.4 to 7.

5. In **Sakiri Vasu Vs. State of U.P. and others, 2008(1) RCR(Cr1.) 392**, 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).”

6. The grievance of the petitioner is that the petitioner made representations to the police regarding her mental and physical torture and misappropriation of her dowry articles by respondents No.4 to 7 but no action has been taken on the same. The grievance of the petitioner can very well be redressed by filing a complaint with application under Section 156(3) of the Cr.P.C. before the Judicial Magistrate First Class having the requisite territorial jurisdiction. In view of availability of equally efficacious alternative remedy the petition is not maintainable and issuance of directions to respondents No.1 to 3 in exercise of powers under Section 482 of the Cr.P.C. is not warranted.

7. Accordingly, the present petition is dismissed with liberty to the petitioner to avail the remedy of filing complaint before the concerned Judicial Magistrate with application under Section 156(3) of the Cr.P.C., if so desired.

24.08.2020
Vinay

(ARUN KUMAR TYAGI)
JUDGE

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