

Sr. No. 106

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

CRM-M-31857 of 2020 (O&M)

Date of Decision: 09.10.2020

Bachitter Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Rohiteshwar Singh, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Yash Pal Sharma, Advocate,
for the complainant..

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petition herein is under Section 482 of the Code of Criminal Procedure seeking issuance of directions to the official respondents to file the final report (challan) under Section 173 of Cr.P.C. in the learned Trial Court in a case FIR No.14 dated 10.02.2020, registered under Section 420 IPC and Section 13 of Punjab Travel Professionals (Regulation) Act 2014 at Police Station Mukerian, District Hoshiarpur.

2. Learned counsel for the petitioner submits that above said FIR was registered on 10.02.2020 but till date accused have not been arrested. He further submits that anticipatory bail of the main accused Harwant Singh was dismissed by this Court vide order dated 01.09.2020 contained at Annexure A-3 but still he has not been arrested.

3. Notice of motion.

4. Mr. Luvinder Sofat, AAG, Punjab, who has joined proceedings, on service of advance copy of petition, accepts notice on behalf of State of Punjab.

5. In my view, Section 156 (3) Cr.P.C. is wide enough in terms of the eventuality of the investigating agency in filing or non- filing of challan, once the investigation is complete. In fact, challan is nothing but a formal culmination of the investigation reduced in writing along with all details and the proposed charges qua the accused and, therefore, powers conferred under Section 156 (3) Cr.P.C. to the Learned Magistrate takes care of eventuality where despite culmination of investigation, challan is though prepared but the same is not being filed and the Magistrate can, therefore, direct the Investigating Agency to take appropriate further steps, in accordance with law.

6. Reference may be had to Apex Court judgment in “***Sakiri Vasu v. State of U.P and others***” 2008 (2) SCC 409. Relevant paras thereof are reproduced as under:-

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“17. In our opinion [Section 156\(3\)](#) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. [Section 156\(3\)](#) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

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24. In view of the abovementioned legal position, we are of the view that although [Section 156\(3\)](#) is very briefly worded, there is an implied power in the Magistrate under [Section 156\(3\)](#) Cr.P.C. to order registration of a criminal offence and /or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these

powers have not been expressly mentioned in [Section 156\(3\)](#) Cr.P.C., we are of the opinion that they are implied in the above provision.

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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.”

7. In the premise, the instant petition is dismissed. The petitioner is, however, at liberty to approach the appropriate Court for redressal of his grievance, as aforesaid.

OCTOBER 09, 2020
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No