

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

**140**

**CRWP-10761-2020  
Date of decision: 23.12.2020**

Dayawanti

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Rahul Makkar, Advocate for the petitioner.

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**ARUN KUMAR TYAGI, J. (ORAL)**

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

The petitioner has filed the present petition under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondents No.2 and 3 to decide her representation dated 16.09.2020 (Annexure P-2) and take appropriate legal action against respondents No.4 to 6 and also to protect the life, liberty and property of the petitioner from danger at the hands of respondents No.4 to 6 and their accomplices.

Briefly stated, the petition has been filed on the averments that the Baljeet Singh brother of the petitioner used to do labour work along with respondents No.4 to 6 and one unknown person for earning his livelihood. Respondent No.4 was constructing a house at Kath Mandi, Rohtak. On 19.01.2020, Baljeet Singh, who was doing his job as labourer with respondents No.4 to 6, did not return home till late night. When the petitioner's family called friends of Baljeet Singh, the petitioner's family came to know that Baljeet Singh met with an

accident and was admitted in PGIMS Rohtak. On being asked as to whereabouts of admission of Baljeet Singh, respondents No.4 to 6 told them not to worry as Baljeet Singh was alright and would be brought at home when discharged. On the next day in the afternoon, Baljeet Singh was brought in the ambulance by respondents No.5 and 6 and it was disclosed to the petitioner and her family members that Baljeet Singh had fallen from height and was taken to PGIMS Rohtak for treatment and after treatment they had come to drop him at home. Baljeet Singh was unconscious when brought to home. On being asked about the same, respondents No.5 and 6 told the family that he was under the influence of medicines and will regain consciousness later. At about 10:00 P.M., the family members were shocked to see that Baljeet Singh had already died. On inquiry, the petitioner's family came to know that a quarrel took place between Satish and Nanha before the alleged incident and Baljeet Singh told about the same to his brother Dara Singh. Baljeet Singh was murdered by respondents No.4 to 6 with their accomplice but respondents No.4 to 6 concocted the false story of accidental fall of Baljeet Singh from height. The petitioner is in possession of telephonic conversation with respondents No.4 to 6 which also pinpointed the factum of murder of Baljeet Singh by them. The petitioner submitted complaint to respondent No.3 and representations dated 11.03.2020 and 10.06.2020 to respondent No.2 and other authorities but no action has been taken so far. Respondents No.4 to 6 are threatening the petitioner that if she pursued the matter with the police or other authorities then she will be defamed in general public and will be killed.

Learned Counsel for the petitioner has, while reiterating factual averments made in the petition, submitted that the complaint/representations made by the petitioner disclosed commission of cognizable offences by respondents No.4 to 6 but no action has been taken by respondents No.2 and 3 who may be directed to decide the representation dated 16.09.2020 (Annexure P-2) and take appropriate legal action against respondents No.4 to 6 and their accomplices and also take appropriate action for protection of the life, liberty and property of the petitioner and her family members from danger at the hands of respondents No.4 to 6 and their accomplices.

In the present case a perusal of the representation dated 16.09.2020 annexed by the petitioner with the petition as Annexure P-2 shows that the grievances of the petitioner are that respondents No.4 to 6 along with their accomplices had murdered her brother Baljeet Singh regarding which she made complaint to respondent No.3 and representations dated 11.03.2020, 10.06.2020 and 16.09.2020 to respondent No.2 and other authorities but no action has been taken by respondents No.2 and 3 on the same and that respondents No.4 to 6 are threatening to kill her if she pursued the matter with respondents No.2 and 3 or other authorities.

**In Sakiri Vasu Vs. State of U.P. and others, 2008(1) RCR(Crl.) 392, Hon'ble Supreme Court observed 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).”*

The observations made in above quoted judicial precedent are fully applicable to the facts of the present case. The grievances of the petitioner in respect of cognizable offences committed by respondents No.4 to 6 and their accomplices can very well be redressed

by filing a complaint with application under Section 156(3) of the Code of Criminal Procedure, 1973 before the Judicial Magistrate First Class having the requisite territorial jurisdiction, as held by Hon'ble Supreme Court in the case of **Sakiri Vasu (supra)**. The petitioner can also apply to the concerned authorities for protection of the life, liberty and property of the petitioner and her family members under the Witnesses' Protection Scheme. In view of availability of equally efficacious alternative remedies to the petitioner, the petition is not maintainable and issuance of directions by this Court in exercise of powers under Article 226 of the Constitution of India, as prayed for by the petitioner, is not warranted.

Accordingly, the present petition is dismissed with liberty to the petitioner to avail the appropriate legal remedies in accordance with law including the remedy of filing complaint before the Judicial Magistrate Ist Class having territorial jurisdiction with application under Section 156(3) of the Code of Criminal Procedure, 1973, if so desired.

**23.12.2020**

Vinay

**(ARUN KUMAR TYAGI)**  
**JUDGE**

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