

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

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**CRM-M-21665-2021
Date of decision: 02.07.2021**

Satinder Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. G.P.S. Ghuman, 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 respondent No.3 to initiate appropriate action against respondents No.5 to 10 on the basis of representation dated 24.02.2021 made by the petitioner.

Briefly stated, the petition has been filed on the averments that the petitioner solemnized marriage with respondent No.5-Gursheen on 24.11.2019. After marriage the petitioner observed that respondent No.5 was very short tempered lady and did not respect elders in petitioner's family circle. She always kept fighting over the small issues and wanted the petitioner to get separated from his old aged mother. On 10.07.2020 they got news about pregnancy of respondent No.5 but under the influence of her parents she did not want the child. When the petitioner did not agree for aborting the child, she started fighting on this very issue. She called her parents and went away with her mother-

respondent No.7 and brother-respondent No.8 to her paternal home. Respondent No.5 tried to pressurize the petitioner on telephone to give consent to abortion while threatening to implicate him in false dowry case. On 24.10.2020 respondent No.5 aborted the child in RKM Hospital, Agarsen Chowk, Ambala City. Respondent No.5 and her family members always wanted male child and they got sex determination test of the foetus conducted illegally. Respondent No.5 herself told the petitioner telephonically that it was girl child and got the child aborted for that reason. The petitioner made complaint dated 16.10.2020 to the Senior Superintendent of Police, Khanna but no action was taken on the same on the ground that abortion was done in RKM Hospital, Ambala City. In the meantime, Ambala police registered FIR No.684 dated 28.11.2020 against the petitioner. In the said case, the petitioner has been granted anticipatory bail by this Court. The petitioner made complaint dated 24.02.2021 to respondent No.3-Superintendent of Police, Ambala but no action has been taken on the same.

Learned Counsel for the petitioner has, while reiterating factual averments made in the petition, submitted that the representation made by the petitioner disclosed commission of cognizable offences by respondents No.5 to 10 but no action has been taken by respondent No.3 who may be directed to decide the representation dated 24.02.2021 and take appropriate legal action against respondents No.5 to 10.

On consideration of the submissions made by learned Counsel for the petitioner and perusal of material on record, I am of the

considered view that the petition is liable to be dismissed in view of availability of alternative remedy to the petitioner.

In the present case the grievances of the petitioner are that respondent No.5 along with her accomplices had got the sex determination test of the foetus conducted illegally and aborted the child on coming to know that it was girl child; that the abortion was also without consent of the petitioner and that no action has been taken by the police on the representation dated 24.02.2021 made by him.

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

RCR(CrI.) 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.”

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 allegedly committed by respondents No.5 to 10 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, as held by Hon'ble Supreme Court in the case of **Sakiri Vasu (supra)**. In view of availability of equally efficacious alternative remedy to the petitioner, the petition is not maintainable and issuance of directions by this Court in exercise of powers under Section 482 of the Cr.P.C., as prayed for by the petitioner, is not warranted.

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

02.07.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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