

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

Sr.No.107

**CRM-M No.27511 of 2021
Date of Decision: 07.09.2021**

Darshan Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Avtar Singh Syan, Advocate,
for the petitioner.

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MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner seeks the indulgence of this Court for the issuance of a direction to the official respondents to register the FIR against the private respondents and to take appropriate legal action against them and he has further prayed that the official respondents be directed to protect his life and liberty as well as his property, while averring that private respondents No.5 to 17, in connivance with the Panchayat and local police, want to take possession of his land which adjoins the land of respondent No.5 and they have given him beatings several times due to this reason and though, he has moved several complaints to the official respondents in this regard but in vain and he also apprehends threat to his life at the hands of the said private respondents.

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I have heard learned counsel for the petitioner at the preliminary stage in this petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the allegations levelled against the private respondents constitute the cognizable offences but the police authorities are not registering the criminal case/FIR in view thereof, despite the fact that the Constitution Bench of the Apex Court has categorically observed in **Lalita Kumari vs. Government of U.P. and others, {Writ Petition (Criminal) No.68 of 2008, decided on 12.11.2013}** that “the registration of the FIR is mandatory under Section 154 Cr.P.C, if the information discloses commission of a cognizable offence” and it being so, the respondents be directed to register the criminal case/FIR against the above-said private respondents.

However, I do not find this contention to be tenable because in **Lalita Kumari's case (supra)**, the issue that had arisen for the consideration was “whether a police officer is bound to register a First Information Report (FIR) upon receiving any information relating to the commission of a cognizable offence, under Section 154 of the Code of Criminal Procedure, 1973 or the police officer has the power to conduct a preliminary inquiry in order to test the veracity of such information before registering the same?”.

Whereas, in the case in hand, the question that has arisen for adjudication is as to whether this Court is required to issue any direction

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for the registration of the criminal case/FIR in case the police authorities do not register the same.

This question stands answered in the judgment handed down by the three Judges' Bench of Hon'ble the Supreme Court in *M. Subramaniam and another vs. S. Janaki and another (Criminal Appeal No.102 of 2011, decided on 20.03.2020)*, wherein the direction given by the High Court for the registration of the FIR had been set-aside while relying upon an earlier judgment of the Apex Court rendered in *Sakiri Vasu vs. State of U.P., (2008)2 SCC 409*, to the effect that “*if a person has a grievance that his FIR has not been registered by the police or the same having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court but to approach the Magistrate concerned under Section 156(3) Cr.P.C.*”

Moreover, in *Aleque Padamsee and others vs. Union of India and others (Criminal Writ Petition Nos.11-15 of 2003, decided on 18.07.2007)*, the Apex Court has also observed that “*in case of non-registration of the FIR by the police, the aggrieved party can lay a complaint before the Magistrate under Sections 190 and 200 Cr.P.C. and the writ petition seeking direction to the police to register the case is not to be entertained.*” In view of these observations, it is explicit that the instant petition to the extent of seeking the issuance of a direction for registration of the FIR is not maintainable before this Court.

Accordingly, the present petition stands dismissed so far as

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it pertains to the prayer of the petitioner for the issuance of direction to the official respondents to register FIR and to take appropriate legal action against the said private respondents.

However, as regards the prayer, as made by the petitioner for the protection of his life, the petition in hand stands disposed of with the observations that he (petitioner) will be at liberty to move a fresh representation to respondent No.2-Senior Superintendent of Police, Police District Khanna, District Ludhiana, exclusively praying therein for the protection of his life only and if so filed, respondent No.2 would look into the same and in case, the petitioner would be found to be genuinely deserving the protection of his life, then the said respondent will take appropriate action strictly in accordance with law, in the given set of the facts and circumstances of the matter, as expeditiously as possible.

07.09.2021
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(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>