

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

CRM-M-28652 of 2021

Date of Decision: 26.07.2021

Arun

.....Petitioner

Versus

State of Haryana and Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

HARINDER SINGH SIDHU, J

By way of preferring instant petition, petitioner has sought directions to official respondents to conduct fair and proper investigation in case FIR No.193 dated 07.07.2021 under Sections 148,149,323,506 IPC registered at P.S Furrukh Nagar, District Gurugram; with further prayer to transfer the investigation to some independent agency not below the rank of Assistant Commissioner of Police.

It is stated that the alleged FIR was got booked by the petitioner with the allegations that the private respondents had illegally entered his land and started cultivating it besides causing injuries to the petitioner and his family members despite there being order dated 10.04.2019 passed by learned ACJ (SD), Pataudi (Gurugram) granting stay in this regard. It is further stated that during the course of investigation, the police pressurized the petitioner to settle the matter out of the court and withdraw the complaint. The accused persons are roaming freely and extending threats to the petitioner.

The Hon'ble Supreme Court in M. Subramaniam v. S. Janaki,

(2020) 16 SCC 728 has held that that if a person has a grievance that his

FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution but to approach the Magistrate concerned under Section 156(3) CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered. He can also direct proper investigation to be done which includes recommending change of the investigating officer, to ensure proper investigation.

In view of the above this petition is disposed of with a liberty to the petitioner to approach the Magistrate concerned under Section 156(3) Cr.P.C for appropriate directions.

July 26, 2021
manoj

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No