

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

Sr.No.110

**CRM-M No.28072 of 2021
Date of Decision: 08.10.2021**

Hasan Mohammad

...Petitioner

Versus

State of Haryana and others

...Respondents

(Heard through Video-Conferencing)

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

Present: Mohammad Arshad, 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 respondents No.2 to 4 to take remedial action on his complaint/representation Annexure P-8 and also to order for immediate action against respondents No.5 to 27, while averring that though, he has already moved the said complaint to respondent No.4 with the prayer to take stern legal action against these respondents but no FIR has been registered against them (respondents), despite the fact that the allegations, as contained in the above-said complaint, constitute the cognizable offences.

Mr. S.S. Pannu, learned Deputy Advocate General, Haryana, has joined the proceedings on behalf of respondents No.1 to 4 in this case, in pursuance of the copies of the instant petition having been sent

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to the respondent-State in advance. He has also forwarded the *Pairvi* report to this Court through *email* and the same has been placed on the file.

I have heard learned counsel for the petitioner as well as learned State counsel in the present petition, at the preliminary stage and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the allegations, levelled by the petitioner against respondents No.5 to 27 in his complaint Annexure P-8, constitute the cognizable offences but the police authorities are not registering the criminal case/FIR against the said respondents in view thereof despite the fact that the Constitution Bench of the Apex Court has categorically observed in *Lalita Kumari Versus 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*”.

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?*”.

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However, in the instant case, the question that has arisen for adjudication is as to whether this Court is required to issue any direction 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 Versus 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 Versus 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 Versus 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 seeking the issuance of the direction for registration

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of criminal case/FIR is not maintainable before this Court.

As a sequel to the foregoing discussion, it follows that the petition in hand deserves dismissal on the ground of its not being maintainable before this Court.

Resultantly, the same stands dismissed accordingly.

08.10.2021
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(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>No</i>