

IN THE HIGH COURT OF PUNJAB AND HARYANA  
CHANDIGARH

SANJIV KUMAR SHARMA  
2021/07/28 12:29  
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CRM-M-28716-2021

Date of decision : 26.7.2021

Wadhawa Ram

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Hardeep Singh, Advocate  
for petitioner.

Mr. Sarabjit Singh Cheema, AAG Punjab.

(Through Video Conferencing)

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HARINDER SINGH SIDHU, J.

This is a petition filed under Section 482 Cr.P.C. seeking direction to respondents No. 1 to 4 to look into grievance of petitioner, investigate the case and take legal action against respondent No. 5.

It is stated that petitioner was Chela of Sewadar Baba Ram Chand. After death of Sewadar Baba Ram Chand, villagers and panchayat made a resolution on 9.4.2016 in favour of petitioner, as per which, petitioner being the Chela of Sewadar Baba Ram Chand, was deputed to look after the smadh/house. Since then petitioner is residing in said smadh/house. The smadh/house touches the main by pass road. Respondent No. 5 is having 18 bighe agriculture land adjoining to smadh/house. It is alleged that respondent No. 5 alongwith others in order to grab the smadh/house for making a showroom over there started threatening the petitioner. Thereafter, respondent No. 5 in March 2021 in order to cause damage to smadh/house started excavating the earth from her land by using JCB machine. The petitioner requested respondent No. 5 not to dig out the earth as it would cause damage to smadh/house but she did not pay any heed to his request and threatened him to vacate the property. Thereby, petitioner instituted a civil suit for permanent injunction restraining respondent No. 5 and others from causing any damage or demolishing any part of smadh/house. Thereafter, in order to cause damage to smadh/house, respondent No. 5 again dug earth and filled the

CRM-M-28716-2021

-2-

same with water. On account of water filled in ditch, foundation of smadh/house became weakened. As a result of which, the house collapsed. The wife of petitioner received injuries who was sleeping there. The petitioner approached respondent No. 4 (SHO, Police Station Dana Mandi, District Patiala) who advised him not to complain against respondent No. 5 as she is an influential person. Thereafter, petitioner moved an application to Senior Superintendent of Police, Patiala but no action has been taken thereon.

Hon'ble the Supreme Court in M. Subramaniam Versus S. Janaki (2020) 16 SCC 728 held that if a person has a grievance that his FIR has not been registered by police or having been registered, proper investigation is not being done, then the remedy of aggrieved person is not to go to High Court under Article 226 of Constitution of India but to approach the Magistrate concerned under Section 156 (3) Cr.P.C. If such an application under Section 156 (3) Cr.P.C. is made and the Magistrate concerned is prima facie satisfied, he can direct FIR to be registered. He can also direct proper investigation to be done which includes recommending change of investigating officer to ensure proper investigation.

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

(HARINDER SINGH SIDHU)  
JUDGE

26.7.2021  
sjks

Whether reasoned order : Yes / No

Whether reportable : Yes / No