

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

**109**

**CRM-M-28915-2021 (O&M)**

**Date of decision: 27.07.2021**

Manjinder Singh Mangat

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. G.P.S. Ghuman, Advocate for the petitioner.

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**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.4 to 6 on the basis of representation dated 19.05.2021 made by the petitioner.

Briefly stated, the petition has been filed on the averments that the petitioner is NRI and residing in USA. The petitioner is having three brothers and all of them are well settled. The petitioner and his brothers are having separate shares of agriculture land by way of family partition which has also been given effect thereto by the revenue authorities. The petitioner is having 12 bigas and 3 biswas of agricultural land but by taking advantage of the fact that he is residing in USA and rarely visits India, respondent No.4-Avtar Singh and respondent No.5-Major Singh, who are cousin of petitioner and respondent No.6-Naginder Singh, who is son-in-law of respondent

No.4, trespassed into his land and cultivated the same and dug earth from about 1 kanal of land with the help of tractor trolleys and JCB. When the petitioner, who had come to India for some other work, reached the spot and objected, respondents No.4 to 6 abused him and chased him in order to kill him but the petitioner escaped. On the same day the above-said persons along with 15-20 other unidentified persons came to his house, abused him, created ruckus and banged at the gate of the house of the petitioner with sticks and batons. The petitioner made representation dated 19.05.2021 and thereafter, returned to USA on 20.05.2021. No action has been taken on his representation.

Learned Counsel for the petitioner has, while reiterating factual averments made in the petition, submitted that the legal representation made by the petitioner disclosed commission of cognizable offences by respondents No.4 to 6 but no action has been taken by respondent No.3 on the basis thereof and therefore, respondent No.3 may be directed to decide the representation dated 19.05.2021 and take appropriate legal action against respondents No.4 to 6.

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 respondents No.4 to 6 trespassed into his land, cultivated part of the same and dug earth from land measuring about 1 kanal and that respondents No.4 to 6 on the same day went to his house, abused him,

created ruckus and banged at the gate of his house and that despite making of legal representation dated 19.05.2021 by him to respondent No.3, no action has been taken by respondent No.3 on the same.

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

***RCR(CrL.) 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.4 to 6 can very well be redressed by filing a complaint along with application under Section 156(3) of the Cr.P.C. before the Judicial Magistrate First Class having the requisite 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 jurisdiction with application under Section 156(3) of the Cr.P.C., if so desired.

**27.07.2021**

Kothiwal

**(ARUN KUMAR TYAGI)**  
**JUDGE**

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