

CRM-M-29868-2021 (O&M)

THROUGH VIDEO CONFERENCE

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

CRM-M-29868-2021 (O&M).

Decided on: July 30, 2021.

Gautam Kumar

.. Petitioner

VERSUS

The State of Punjab and others

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Abnash Singh, Advocate,
for the petitioner.**

JASGURPREET SINGH PURI, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, for issuance of directions to respondent Nos.1 and 2 to take appropriate legal action against respondent Nos.3 to 7 along with respondent Nos.8 and 9, on the basis of complaint made by the petitioner (Annexure P-5).

Learned counsel for the petitioner has submitted that complaint vide Annexure P-5 was made to the Deputy Superintendent of Police, Sub Division, Kharar, S.A.S. Nagar, but deliberately no action has been taken on the same and even the FIR has not been lodged. He has

submitted that the petitioner is married with respondent No.8 and there is one son born out of the wedlock. There is a flat which was jointly allotted to the petitioner and respondent No.8 vide Annexure P-2 and respondent No.8 has induced the petitioner to transfer the joint property in her name and got executed one affidavit on 20.2.2020. Apart from this, respondent No.8 who is wife of the petitioner has got married with respondent No.9 on 21.3.2020 during the lifetime of the petitioner without getting any divorce from the petitioner and therefore, offence under Section 494 IPC has been committed by respondent No.8. He has further submitted that there is an allegation of forgery of signatures on the documents of the joint property and therefore, offence under Sections 420, 467 and 474 IPC have also been committed by respondent No.8.

I have heard the learned counsel for the petitioner.

The petitioner had filed a complaint to the Deputy Superintendent of Police, Sub Division, Kharar, S.A.S. Nagar vide Annexure P-5. The petitioner has two grievances. Firstly, respondent No.8 who is the wife of the petitioner has got married with respondent No.9 during subsistence of earlier marriage and therefore, offence under Section 494 IPC is committed by respondent No.8 and secondly, respondent No.8 has forged his signatures pertaining to a joint flat in her own exclusive name. The complaint of the petitioner was inquired into by the office of the Deputy Superintendent of Police, Sub Division, Kharar, S.A.S. Nagar, by Incharge Police Station, Sunny Enclave, SHO, Police Station, Kharar and a perusal of Annexure P-7 shows that so far as transfer of the flat of the

petitioner by his wife is concerned, the same is of civil nature and the petitioner has been advised to get relief in civil Courts and so far as the allegation with regard to the solemnization of the marriage of the wife of the petitioner with some other person during subsistence of earlier marriage is concerned, a legal opinion was sought in this regard and vide Annexure P-9, legal opinion was given by the DDA (legal) that offence under Section 494 IPC is made out but the same is non-cognizable offence and therefore, it was advised that the petitioner may approach the Court in this regard.

So far as offence under Section 494 IPC is concerned, the same is non-cognizable and bailable offence and therefore, a complaint can be filed before the competent Court. However, a direction cannot be issued for registration of FIR in exercise of powers under Section 482 Cr.P.C. for such a relief sought. So far as other allegations of the petitioner are concerned, the same pertain to fraudulent transfer of the flat which was jointly allotted to petitioner and respondent No.8 and was allegedly transferred fraudulently by respondent No.8. The redressal of the same can also be made by filing a criminal complaint if so desired by the petitioner but in accordance with law in view of the law laid down by the Hon'ble Supreme Court in **Sakiri Vasu Vs. State of U.P. 2008 (1) RCR (Criminal) 392**, wherein it has been observed that High Court should discourage the practice of filing a writ petition or a 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. Therefore, this Court does not deem it fit and proper to

invoke the extra ordinary jurisdiction under Section 482 Cr.P.C.
Consequently, the present petition is hereby dismissed. However, the
petitioner may, if so advised, avail any other alternative remedy available to
him in accordance with law.

July 30, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No