

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

CRM-M-39319 of 2021

Date of Decision: 21.09.2021

M/s Choudhary Milk Food Products

.....Petitioner

Versus

State of Haryana and Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Kawalpreet Singh Virk, Advocate for the petitioner.

HARINDER SINGH SIDHU, J

Grievance of the petitioner is that respondent No.5 is selling adulterated Ghee to the innocent customers under the Brand name of the petitioner firm namely “Dairy Touch” and caused him a huge financial loss.

It is stated that the petitioner-firm was engaged in the business of Manufacturing, sale and supply of Milk Products including Desi Ghee, Butter, Milk, Buttermilk etc under the name and style of “Dairy Touch” since 2014. It also obtained necessary approval/licence from the Food Safety and Standards Authority of India under the Food Safety and Standards Act, 2006 in this regard. In the year 2018, respondent No.5 started working with the petitioner-firm as a sale agent on commission basis and continued supplying the products to the parties concerned till February 2021. During this period, respondent No.5 procured large number of products amounting to Rs.40 lacs on credit basis, which remains unpaid till date. Upon being asked, respondent No.5 flatly refused to pay the amount to the petitioner apart from misbehaving and threatening. The petitioner has made a complaint dated 30.07.2021 (P.9) to respondent No.2 in this regard but no action has been taken thereon.

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.

September 21, 2021
manoj

(Harinder Singh Sidhu)
Judge

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