

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

CRM-M-41242 of 2021

Date of Decision: 04.10.2021

Sonu

.....Petitioner

Versus

State of Haryana and Ors.

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Dhruv Khanna, Advocate for the petitioner.

HARINDER SINGH SIDHU, J

Through instant petition, petitioner has sought directions to official respondents to conduct fair and proper investigation in case FIR No.17 dated 12.01.2017 under Sections 323,506 IPC registered at P.S Kanina, District Mohindergarh; with further prayer to transfer the investigation to a senior police Officer not below the rank of Superintendent of Police.

It is stated that the alleged FIR was got booked by the petitioner with the allegations that on 21.09.2016, accused Karan Singh came to the house of the petitioner and asked for whereabouts of his parents. Having been told of petitioner's parents being not at home, accused told the petitioner to deliver a message to his parents to withdraw the litigation pending against him besides hurling caste abuses. Upon being objected by the petitioner, accused caused the beatings to him from a rod.

It is stated that after registration of the FIR, no action was taken to either record statements of any of witnesses or bring evidence on record and that a cancellation report was prepared on 04.03.2017.

Dissatisfied with the inaction on the part of Investigating Agency, the

petitioner and his brother filed representations dated 10.02.2018, 22.04.2019 & 31.12.2019 (P.3, P.4 & P.5 respectively) but no action has been taken thereon. It is further stated that on 09.04.2021, a status report has been filed stating that after investigation, no substance has been found in the accusations and the cancellation report filed on 04.03.2017 has been found to be correct.

Learned counsel for the petitioner submits that the concerned official respondents have not taken any effective steps for proper investigation and that the Investigating agency in hand and gloves with the accused has wrongly prepared the cancellation report.

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) Cr.PC. If such an application under Section 156(3) Cr.PC 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.

October 04, 2021
manoj

(Harinder Singh Sidhu)
Judge

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