

Satish Kumar

...Petitioner

Versus

State of Haryana & Ors.

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Manoj Kakkar, Advocate for the petitioner.

B.S. Walia, J. (VC)

[1] Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

[2] Prayer in the instant petition under Section 482 CrPC is for issuance of appropriate directions to respondent Nos.1 to 4 to take appropriate legal action against respondent Nos.5 to 7 by registering an FIR against them in accordance with law as the local police is hand in gloves with respondent Nos.5 to 7 and is not registering FIR against them.

[3] Notice of motion.

[4] Mr. Gurbir Dhillon, learned AAG, Haryana accepts notice and contends that in view of the law laid down in ***Sakiri Vasu vs. State of UP and others, 2008 (2) SCC 409***, the petitioner is liable to be relegated to avail his remedy by approaching the concerned Magistrate under Section 156 (3) Cr.P.C.

[5] I have considered the submissions of learned counsel for the parties.

[6] Admittedly, the prayer in the instant petition is for directing the official respondents to register an FIR against respondent Nos.5 to 7 in accordance with law on account of inaction by the police. Hon'ble the Supreme Court in *Sakiri Vasu's case (Supra)* has held that the High Court should not encourage the practice of filing a petition under Section 482 Cr.P.C. for registration of FIR and whenever there is a grievance that FIR has not been registered at the Police Station or appropriate investigation is not being done by the police, ordinarily the High Court should refuse to interfere in such matters, and relegate the petitioner to avail his alternative remedy, firstly under Section 154(3) CrPC and Section 36 Cr.P.C. before the concerned police officers, and if the same is of no avail, then by approaching the concerned Magistrate under Section 156(3) CrPC. Relevant extract of the aforementioned decision is reproduced as under:-

“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under Section 482Cr.P.C. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters, and relegate the petitioner to his alternating remedy, firstly under Section 154(3) and Section 36Cr.P.C. before the concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under Section 156(3).”

[7] Faced with the aforementioned position, learned counsel for the petitioner prays for permission to withdraw the petition with liberty to

the petitioner to take out appropriate proceedings, in accordance with the decision as referred to above.

[8] In view of the statement of learned counsel for the petitioner, the petition is disposed of as withdrawn, with the liberty as prayed for.

(B.S. Walia)
Judge

13.10.2021
'Amit'

- 7. Whether speaking/reasoned : Yes/No.
- 8. Whether reportable : Yes/No.