

CRM-M-44989-2021 (O&M)

Through video conference
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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-44989-2021 (O&M).
Decided on: October 28, 2021.

Chatar Bhuj

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

**PRESENT: Mr.P.C.Yadav, Advocate,
for the petitioner.**

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure, seeking directions to respondent Nos.5 to 9 not to interfere in the ownership of the land in the name of wife of the petitioner of which she is stated to be the owner vide sale deed dated 6.1.2006 (Annexure P-1) and jamabandi for the year 2016-17 (Annexure P-2) with a further direction to any higher officer or independent agency to conduct fair investigation in this regard.

Learned counsel for the petitioner has argued that wife of the petitioner had purchased land measuring 11 marlas 325 sq. yards from

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one Ram Kumar son of Roop Chand resident of village Hodal, District Faridabad (respondent No.9) per sale deed dated 6.1.2006 and the name of the wife of the petitioner was entered into revenue record in the jamabandi for the year 2016-17. Thereafter, he applied to the Tehsildar seeking demarcation of the land. However, in connivance with police officials respondent No.8 started interfering in the ownership of the land in the name of wife of the petitioner. Thereafter, the petitioner submitted an application before the SHO, Police Station, Sadar Palwal and another application to the S.P. Palwal, that the SHO in connivance with the aforesaid Ram Kumar instead of taking action on the complaint of the complainant, is supporting the accused and has illegally detained him in the premises of the police station for the whole day and has taken forcible possession of the purchased plot and also forfeited their cement bags, sand, brick and spade etc. He has therefore, prayed that the matter be got investigated from some independent agency since Ram Kumar (respondent No.9) from whom he had purchased the property was interfering in the possession of the land belonging to the wife of the petitioner.

I have heard the learned counsel for the petitioner.

The grievance of the petitioner, while seeking to invoke extra ordinary jurisdiction under Section 482 Cr.P.C., is that his wife had purchased some property from respondent No.9 and thereafter, respondent No.9 is interfering in the possession of the land in the name of wife of the petitioner. Subject matter involved in the present case appears to be a

dispute involving ownership and possession of property between purchaser and the seller and on the face of it disputed questions of fact are involved because the dispute in the present case pertains to some property purchased in the name of wife of the petitioner. Furthermore, a perusal of Annexure P3 dated 16.3.2021 which is an application under the Right to Information Act, accompanied with the proceedings of the police department which has been attached by the petitioner at page No. 24 of the paper book shows that the complaint of the petitioner was inquired into by the Deputy Superintendent of Police, Hodal and it was found that the complaint was wrong and the matter involved is of civil nature. Thereafter, the petitioner again filed representation to the Director General of Police, South Range, Rewari, but the contents of the same would also show that the dispute is with regard to the property and allegations have been made against the police officials as well. Even though the subject matter of the dispute pertains to ownership and possession of property between purchaser and seller but there is nothing on record to show that the petitioner approached any civil Court in this regard for getting his rights adjudicated in accordance with law. The petitioner has straightway filed the present petition seeking to invoke the extra ordinary power under Section 482 Cr.P.C. without exhausting his other remedies before appropriate Criminal Court/Magistrate. The Hon'ble Supreme Court in **Sakiri Vasu Vs. State of U.P. 2008 (1) RCR (Criminal) 392**, has held as follows:-

"If a person has a grievance that his FIR has not been registered by the police station, his first remedy is to

approach the Superintendent of Police under Section 154(3) Criminal Procedure Code or other police officer referred to in Section 36 Criminal Procedure Code. If despite approaching the Superintendent of Police or the officer referred to in Section 36, his grievance still persists, then he can approach a Magistrate under Section 156(3) Criminal Procedure Code instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Criminal Procedure Code. Moreover, he has a further remedy of filing a criminal complaint under Section 200 Criminal Procedure Code. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

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 Criminal Procedure Code, 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) Criminal Procedure Code before the Magistrate or by filing a criminal complaint under Section 200 Criminal Procedure Code and not by filing a writ petition or a petition under Section 482 Criminal Procedure Code.”

In view of above, this Court is of the opinion that it is not a fit case to exercise extra ordinary power under Section 482 Cr.P.C. and therefore, the present petition is hereby dismissed.

October 28, 2021
raj arora

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No