

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46448-2021

Date of Decision: 03.11.2021

VARUN BHOGAL

... PETITIONER

VS.

STATE OF HARYANA AND OTHERS

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Yogesh Goel, Advocate
for the petitioner.

VIVEK PURI, J.

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

The petitioner has put forth a case to the effect that he was confined in District Jail, Panipat and was suffering from pancreatic disease.

Constable Shish Pal was posted in the jail hospital and he was requested by the petitioner to contact his wife to send medicine in the jail. Constable Shish Pal started making telephonic calls to the wife of the petitioner and tried to influence her by talking in a vulgar manner in the absence of the petitioner. A written complaint was submitted to respondent No2. Instead of taking any action against Constable Shish Pal, the petitioner was pressured to right a compromise and an apology letter. The complaint has been submitted to respondent No.2, but no action has been initiated thereupon. The complaint submitted by the petitioner discloses the commission of cognizable offence.

I have heard learned counsel for the petitioner.

It has been argued by the learned counsel for the petitioner that

the allegations spelt out in the representation dated 05.08.2021 (Annexure P-1) discloses the commission of cognizable offence under Sections 354, 506 and 509 IPC, but no action has been initiated on the said representation.

In **Sakiri Vasu vs. State of U.P and others, (2008) 2 SCC 409,**

it has been laid down as following:-

“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\(3\)](#) Cr.P.C. or other police officer referred to in [Section 36](#) Cr.P.C. 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\(3\)](#) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under [Section 482](#) Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under [Section 200](#) Cr.P.C. 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](#) 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. 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\(3\)](#) Cr.P.C. before the Magistrate or by filing a criminal complaint under [Section 200](#) Cr.P.C. and not by filing a writ petition or a petition under [Section 482](#) Cr.P.C.

It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”

In the event there is an allegation of commission of cognizable offence and the police is not registering the FIR, the petitioner can approach the Superintendent of Police under Section 154 (3) Cr.P.C. In the event the same does not yield any satisfactory result, it is always open to the aggrieved person to approach the concerned Judicial Magistrate as per the provisions of Section 156 (3) Cr.P.C.

In view of existence of an alternate remedy, no reasonable or justified ground is made out for this Court to interfere in the matter.

Petition is, accordingly, dismissed.

03.11.2021
smriti

(VIVEK PURI)
JUDGE

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