

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

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**CRM-M-43863-2020
Decided on : 18.03.2021**

Parveen Kumar

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. A.S. Boparai, Advocate
for the petitioner(s).

Mr. Rajiv Goel, DAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking issuance of directions *qua* the respondent State for registration of an FIR in pursuance to the judgment/directions passed by this Court in CWP No. 8756 of 2010, titled as, “Hardeep Singh Sundria, Advocate and others Vs. State of Haryana and others”, decided on 02.11.2011. Besides above, a further prayer has also been made for issuing direction to the respondents, to decide complaint dated 02.12.2020 (Annexure P-11) and initiate criminal proceedings, in accordance with law.

It is the case of the petitioner that the medical staff including some Doctors of Civil Hospital, Kaithal, fabricated and manipulated certain medical records etc. of Anju, who is the estranged wife of the petitioner, which are now being used against him in criminal proceedings arising out of FIR No. 234, dated 11.10.2018, lodged under Sections 313, 323, 406, 498-A, 506, 34 IPC, registered at Women Police Station, Jind.

Learned counsel for the petitioner has invited the attention of this Court to CWP No. 8756 of 2010, wherein, the Division Bench of this Court vide its order dated 02.11.2011, gave directions to the public at large that in case anyone was aggrieved by the acts of procured fabricated medical record, which could be or were used in ancillary criminal proceedings, they could approach this Court.

Learned counsel for the petitioner has contended that Anju in collusion with the Doctors, had procured the fake and forged medical documents with an oblique motive to use the same during evidence in the aforementioned FIR, registered at Women Police Station, Jind. Learned counsel for the petitioner, in support of his contention, *qua* the alleged fabrication of medical records etc., has invited the attention of this Court to the information received by him under the Right to Information Act, 2005, which as per him clinchingly reveals the wrong doings of the erring medical staff and Doctors.

On being put to notice, status report dated 12.02.2021, by way of affidavit of Vivek Chaudhary, DSP, CAW, Kaithal, on behalf of respondents No.1, 4 & 5, has been filed in the registry. Same is taken on record, subject to all just exceptions.

Learned State counsel while inviting the attention of this Court to the status report so filed, has stated that an inquiry was conducted, however, no substance was found in the allegations levelled by the petitioners.

I have heard learned counsel for the parties at length and has gone through the material on record including the original record, which was summoned vide order dated 03rd March, 2021.

Before proceeding further, it would be apposite to refer to the observations of the Apex court rendered in **Sakiri Vasu Vs. State of U.P. and others, 2008(1) RCR (Criminal) 392**. The relevant part of which is as under:-

“24. In view of the abovementioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and /or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision.

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 482 Cr.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 36 Cr.P.C. before the concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under Section 156(3).

26. 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?”

In the wake of the observations made by the Apex Court in **Sakiri Vasu's case** (supra) and keeping in view the prayer of the learned counsel for the petitioner for seeking directions to the respondents for registration of FIR, no ground to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C. is made out.

Also, the reliance placed by the learned counsel for the petitioner, on the directions given in **Hardeep Singh Sundaria's case** (supra), is misplaced. A bare reading of para No.12 of this judgment/order reveals that the liberty given to the public to move any other application before this Court was *qua* the subject matter of that particular petition and the Registry was directed to place the same before that very Bench.

Petition stands dismissed accordingly. However, petitioner is at liberty to avail of alternate remedy as may be available to him in law.

(MANJARI NEHRU KAUL)
JUDGE

March 18, 2021

J.Ram

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