

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 44325 of 2018

Date of Decision: 05.8.2022

Krishan Singh and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: None for the petitioners.

Mr. M.S.Nagra, AAG, Punjab.

None for respondents No. 5 and 6.

SURESHWAR THAKUR, J. (ORAL)

1. The prayer made in the petition, is for a direction being made, upon the respondents concerned, to, on the basis of Annexure P-1, draw lawful action against the accused concerned.

2. However, the respondents concerned, in their reply on affidavit, furnished to the petition, disclosed that since the offence made out in Annexure P-1, is a non-cognizable offence, and, hence the police cannot register an FIR, thereupon the police has initiated proceedings against the offenders concerned, under Sections 107/151 of the Cr.P.C.

3. The above made contentions, in the reply on affidavit, furnished to the petition, though does openly reveal, that the offence under Section 323 IPC, is made out against the offenders concerned, but yet it is surprising that, on a false pretext of an FIR being not amenable for becoming lodged by the police station concerned, as it is a non-cognizable offence hence the appropriate action remained undrawn. The wants of drawings of appropriate

actions, upon, the above flimsy pretext or for non-lodging of FIR, is unworthy of acceptance, and, also the mere initiation of proceedings under Section 107/151 of the Cr.P.C., against the offenders concerned, in substitution to the registration of an FIR, even in respect of non-cognizable offence, rather is also not worthy of acceptance.

4. Consequently, given the admission in paragraph (3) of the reply, on affidavit, furnished to the petition, that in Annexure P-1, an offence under Section 323 IPC is made out, thereupon it is open to the investigating officer concerned, to, in accordance with law, withdraw the proceedings initiated against the offenders concerned, and, as become launched before the Executive Magistrate concerned, for preventive action under Section 107/151 of the Cr.P.C., being drawn against the offenders concerned, and, thereafter, to proceed to in accordance with law, and, draw lawful action against the offenders concerned.

5. With the afore observations, the petition stands disposed of.

(SURESHWAR THAKUR)
JUDGE

August 05, 2022
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No