

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

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**CRM-M-24799-2022
Date of decision: 01.06.2022**

SULAKAHAN SINGH AND OTHERS**Petitioners**
VERSUS

STATE OF PUNJAB AND OTHERS**Respondents**

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Ms. Rajvinder Kaur Sohal, Advocate
for the petitioners.

VINOD S. BHARDWAJ. J.(Oral)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) for seeking issuance of an appropriate direction to the official respondent Nos.1 to 3 for taking stern action by way of lodging an FIR against the private respondents for offences punishable under Sections 420, 406, 404 and 120-B of the IPC as well as for the other criminal provisions that may be attracted.

2. Learned counsel appearing on behalf of the petitioners contends that the petitioners are farmers and that they had sold their wheat crops on the shop of commission agent namely Manoj Kumar Bhasin and the payment of the same had been transferred by Markfed to the account of the said Commission Agent in Axis Bank, Kurali for onward payment to the petitioners. However, on 04.05.2020, Manoj Kumar Bhasin – the Commission Agent committed suicide. Private respondents are the LR's of deceased Manoj Kumar. It is contended that

after the death of the Commission Agent, restrictions have been imposed by the Bank upon using the account of the proprietorship concerned, however, the private respondents had already transferred a sum of Rs.25 lacs in the account of the respondent No.5 and another sum of Rs. 26.50 lacs to the account of respondent No.6 after the death of Manoj Kumar Bhasin and before closure of the said account. Further more, it is contended that as per the report of the Markfed in the statement of Axis Bank dated 07.05.2020, the amount of Rs. 26.50 lacs has been contemplated as a return in the account of Commission Agent Manoj Kumar Bhasin by Axis Bank and then that amount was transferred by respondent No.5 in his Account, a sum of Rs. 18.69 lacs having been shown as returned from the same. It is alleged that a total amount of Rs. 51.50 lacs was transferred in the two Accounts and that out of the same a sum of Rs. 43.69 lacs has been gotten reversed in the account of Manoj Bhasin. The amount of Rs. 18.69 lacs had been adjusted by the bank in the Limit Account of Manoj Bhasin. It is contended that the private respondents have connived with each other and have cleared the Bank loan amount of late Manoj Kumar Bhasin and that the amount had been transferred by the Government for making payment of the crops to the farmers and that only the farmers had right on the said payment but the same has been misappropriated by the private respondents. It is contended that a representation in this regard was duly submitted to the SDM, Kharar, however, no action has been taken there upon.

3. I have heard learned counsel appearing on behalf of the petitioner. Submission of representation to the authorities does not by itself enable the petitioners to approach the High Court under Section 482

Cr.P.C. for seeking a direction for registration of the FIR. As per the scheme enshrined in the Code of Criminal Procedure, if an FIR is not registered by the concerned Police Station when a cognizable offence is disclosed on a complaint furnished to it. The complainant is entitled to move an application before the higher Police Officer i.e. Superintendent of Police of the concerned District and that even if the same does not evince sufficient response, the person aggrieved has every right to move an appropriate application/complaint before the Illaqa Magistrate. No valid reasons have been put forth as to why the said remedy available under the Code of Criminal Procedure cannot be availed of by the petitioners. Power under Section 482 Cr.P.C. indeed is an extra ordinary power, however, such power is not a panacea for all grievances. It is not a substitute of procedural law. The said power is to be invoked only when the remedy is not expressly prescribed in the statute of the Code of Criminal Procedure. Once an efficacious alternative and effective remedy is available to the petitioner, it would not be open to the petitioner to come straight away to the High Court invoking Section 482 Cr.P.C. without pointing out any onerous circumstance that would deprive or deny him an access to the process of law before the Illaqa Magistrate.

4. The present petition is thus dismissed with liberty to the petitioner to take recourse to the appropriate remedy available to him in accordance with law.

JUNE 01, 2022
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

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