

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

**CRM-M No.28811 of 2022
Date of Decision: 08.07.2022**

Jubaida

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Mohammad Arshad, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

By way of this petition, the petitioner seeks the indulgence of this Court for the issuance of direction to respondents No.2 to 4 to take remedial action on the complaint (Annexure P-2) moved by her against respondents No.5 to 13, while averring that these private respondents entered into her house and they were armed with the weapons and they gave beatings to her as well as to her sons and though she moved the above-said complaint/application to respondent No.4 in this regard but in vain.

2. I have heard learned counsel for the petitioner in the present petition at the preliminary stage and have also perused the file thoroughly.

3. Learned counsel for the petitioner contends that the allegations levelled by the petitioner against respondents No.5 to 13 in the said complaint/application, constitute the cognizable offences but the police authorities are not registering the FIR/criminal case in view thereof despite

the fact that the Constitution Bench of the Apex Court has categorically observed in **Lalita Kumari Versus Government of U.P. and others, {Writ Petition (Criminal) No.68 of 2008, decided on 12.11.2013}** that “the registration of the FIR is mandatory under Section 154 Cr.P.C, if the information discloses commission of a cognizable offence” and it being so, the official respondents be directed to register the criminal case/FIR against respondents No.5 to 13.

4. I do not find the afore-raised contention to be tenable because in **Lalita Kumari's case (supra)**, the issue that had arisen for the consideration was “whether a police officer is bound to register a First Information Report (FIR) upon receiving any information relating to the commission of a cognizable offence, under Section 154 of the Code of Criminal Procedure, 1973 or the police officer has the power to conduct a preliminary inquiry in order to test the veracity of such information before registering the same?”.

5. However, in the case in hand, the question that has arisen for adjudication is “as to whether this Court is required to issue any direction for the registration of the criminal case/FIR in case the police authorities do not register the same.”

6. The above-said question stands answered in the judgment handed down by the three Judges' Bench of Hon'ble the Supreme Court in **M. Subramaniam and another Versus S. Janaki and another (Criminal Appeal No.102 of 2011, decided on 20.03.2020)**, wherein the direction given by the High Court for the registration of the FIR had been set-aside

while relying upon an earlier judgment of the Apex Court rendered in **Sakiri Vasu Versus State of U.P., (2008)2 SCC 409**, to the effect that “if a person has a grievance that his FIR has not been registered by the police or the same having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court but to approach the Magistrate concerned under Section 156(3) Cr.P.C.”

7. Moreover, in **Aleque Padamsee and others Versus Union of India and others (Criminal Writ Petition Nos.11-15 of 2003, decided on 18.07.2007)**, the Hon’ble Supreme Court has also observed that “in case of non-registration of the FIR by the police, the aggrieved party can lay a complaint before the Magistrate under Sections 190 and 200 Cr.P.C. and the writ petition seeking direction to the police to register the case is not to be entertained.” In view of these observations, it is explicit that the instant petition preferred for seeking direction to the official respondents No.2 to 4 to take remedial action on complaint Annexure P-2, as moved by the petitioner with a prayer to take legal action against the private respondents by registering case against them, is not maintainable before this Court.

8. As a sequel to the foregoing discussion, it follows that the petition in hand deserves dismissal on the ground of its not being maintainable before this Court. Resultantly, the same stands dismissed accordingly.

08.07.2022

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No