

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

**CRM-M No.33779 of 2022
Date of Decision: 28.10.2022**

Punjab Wakf Board, through Mohammad Ayyub

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. Lalit Singla, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab
for respondents No.1 to 4.

MEENAKSHI I. MEHTA, J.(Oral)

By way of the instant petition, the petitioner-Board has sought the indulgence of this Court for the issuance of directions to official respondents No.2 to 4 to register the FIR against respondents No.5 to 8 and their accomplices and to take appropriate legal action on the complaints Annexures P-9 to P-12 moved by it (Board) and also to protect its property and to restrain respondents No.4 to 8 from encroaching upon the same by raising any wall or construction over it illegally as well as to protect the lives and liberty of its officials.

2. I have heard learned counsel for the petitioner as well as learned State counsel, at the preliminary stage, in the present petition and have also perused the file carefully.

3. As regards the relief as sought by the petitioner-Board for the issuance of direction to official respondents No.2 to 4 to register the FIR against the private respondents, it is worth-while to mention here that in **M. Subramaniam and another Versus S. Janaki and another (Criminal Appeal No.102 of 2011, decided on 20.03.2020)**, the three Judges' Bench of Hon'ble Supreme Court has set aside the direction given by the High Court for the registration of the FIR 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.*"

4. 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)**, 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 is not maintainable before this Court to the extent of the prayer of

the petitioner for the issuance of direction to the official respondents to register the FIR against private respondents No.5 to 8.

5. So far as the prayer of the petitioner to direct the official respondents to take appropriate legal action on its above-said complaints is concerned, it is again pertinent to mention here that in the written request as submitted on behalf of the respondent-State, it has categorically been mentioned that respondent No.3-Commissioner of Police, Ludhiana, has already constituted a Team of the Senior Officers consisting of the Joint Commissioner of Police-HQ and ADCP-4, Ludhiana, to conduct the enquiry in pursuance of the representation moved by the petitioner-Board. It being so, the said prayer of the petitioner has, now, become infructuous.

6. As regards the prayer as made by the petitioner-Board for the issuance of the direction to the official respondents to restrain respondents No.4 to 8 from encroaching upon its property, the same is not maintainable before this Court and rather, the petitioner may, if so desired, resort to the appropriate, alternative and efficacious remedy, as may be permissible to it under law, for this purpose.

7. So far as the prayer of the petitioner-Board for the protection of the lives and liberty of its officials is concerned, it is clarified that the aggrieved official(s), if any, would be at liberty to prefer the representation to respondent No.3, exclusively praying therein for the said protection only and in case any such representation is moved, the afore-said respondent shall consider the same and if the applicant(s) would be found to be genuinely deserving any such protection, then he shall take appropriate

action, strictly in accordance with law, in the given set of the facts and circumstances of the matter.

8. Resultantly, the petition in hand stands dismissed with the liberty as mentioned above.

October 28, 2022
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>