

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

256

CRM-M-38441-2020
Date of decision : 29.10.2022

Metalman Micro Turners

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. A.P. Dhankhar, Advocate for
Mr. Sunil Kumar, Advocate for the petitioner.

Mr. Gaurav Bansal, A.A.G., Haryana
for respondents No.1 to 3.

Mr. Ankul Lal, Advocate
for respondent No.4.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') for issuance of directions to respondents No.1 to 3 to register FIR against respondent No.4 under Section 406 and 420 of the Indian Penal Code, 1860.

Learned Counsel for the petitioner has, while reiterating factual averments made in the petition, submitted that respondent No.4 with dishonest intention has tried to cheat and play fraud upon the petitioner. The petitioner had also made representation dated 27.01.2020 to respondent No.2-Senior Superintendent of Police, Rewari but not action has been taken on the said representation. Therefore, respondents No.2 and 3 may be directed to take appropriate legal action on the above said representation and register FIR against

respondent No.4.

On the other hand learned State counsel has opposed the present petition in terms of reply filed by way of an affidavit dated 05.01.2021 of Sh. Amit Bhatia, HPS, Deputy Superintendent of Police, Rewari.

On consideration of the submissions made by learned Counsel for the parties and perusal of the relevant record, I am of the considered view that the petitioner has equally efficacious remedies available to him and the petition being not maintainable is liable to be dismissed.

In *Sakiri Vasu Vs. State of U.P. and others : 2008(1)*

R.C.R. (Crl.) 392, Hon'ble Supreme Court observed as under:-

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Cr.P.C. simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.

29. In Union of India vs. Prakash P. Hinduja and another 2003 (6) SCC 195 (vide para 13), it has been observed by this Court that a Magistrate cannot interfere

with the investigation by the police. However, in our opinion, the ratio of this decision would only apply when a proper investigation is being done by the police. If the Magistrate on an application under Section 156(3) Cr.P.C. is satisfied that proper investigation has not been done, or is not being done by the officer-in-charge of the concerned police station, he can certainly direct the officer in charge of the police station to make a proper investigation and can further monitor the same (though he should not himself investigate).”

A perusal of the representation dated 27.01.2020 of the petitioner shows that the grievances of the petitioner in respect of cognizable offences committed by respondent No.4 can very well be redressed by filing a complaint with application under Section 156(3) of the Cr.P.C. as held by Hon'ble Supreme Court in the case of ***Sakiri Vasu (supra)*** before the Judicial Magistrate First Class having the requisite territorial jurisdiction.

Accordingly, the present petition is dismissed with liberty to the petitioner to avail the appropriate legal remedies in accordance with law including the remedy of filing complaint before the Judicial Magistrate Ist Class having territorial jurisdiction with application under Section 156(3) of the Cr.P.C., if so desired.

29.10.2022
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(ASHOK KUMAR VERMA)
JUDGE

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