

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

108

CRM-M-50779-2022

Date of decision: 14.11.2022

JEET KHAN

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Amandeep Singh Sidhu, Advocate
for the petitioner.

Ms. Ishneet Kaur, AAG, Punjab.

DEEPAK MANCHANDA, J.(ORAL)

The present petition has been filed under Section 482 Cr.P.C. for directing the respondent No.2 to decide the representation dated 06.09.2022 having UID No.9425/P whereby the complaint was filed for registration of FIR under cognizable offence.

Learned counsel for the petitioner contends that the petitioner approached the respondents No. 2 and 3 for the registration of FIR under Sections 406, 420, 120-B of IPC against respondents No. 4 to 5 as the respondents No. 4 and 5 in connivance with each other committed fraud upon the son of the petitioner namely Gulzar Khan by alluring him to send abroad (Malaysia) and extracted an amount of ₹ 1,40,000 from him. He further contends that a representation dated 06.09.2022 vide UID No. 9425/P was sent to the respondent No. 2, with the request for registration of FIR and for taking appropriate legal action but when no necessary steps were taken by respondent No. 2, then aggrieved by the inaction of the police authorities, the present petition has been

filed before this Court to decide the representation dated 06.09.2022 (Annexure P-2) for registration of FIR under cognizable offences.

Learned State counsel submits that the petitioner has not availed the alternate remedies available to him.

Heard learned counsels for the parties

Keeping in view of the above, the petition of this nature is not maintainable before this Court as Section 482 Cr.P.C. cannot be invoked in all circumstances, which is not an alternative remedy to Section 156(3)Cr.P.C.but a repository of inherent power. Further the normal course of remedy on a failure or refusal to record the information is Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154(3) Cr.P.C.

If the petitioner has a grievance that the Police Station is not registering his FIR under Section 154 of Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by moving an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering if proper investigation is not held, it is open to the aggrieved person to file appropriate application under Section 156(3) Cr.P.C. before the learned Magistrate concerned. If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.

In the present case, the representation which is annexed with the petition does not show that whether first condition of approaching the in-charge of the Police Station under section 154 of Cr.P.C. has been complied with as same is addressed to concerned Superintendent of Police under Section 154(3) Cr.P.C.

Further the registration of an FIR involves only the process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by the officer in-charge of the police station as indicated in Section 154 of the Code. Even if a Magistrate does not say in while directing investigation under Section 156(3) of the Code that an FIR should be registered, it is the duty of the officer in-charge of the police station to register the FIR regarding the cognizable offence disclosed by the complainant/petitioner because that police officer could take further steps contemplated in Chapter XII of the Code only thereafter, and petitioner should have complied with the mandate of the section before filing the present petition.

In present case since petitioner has not exhausted the remedies available to him under the law and has approached this Court directly invoking the jurisdiction under Section 482 Cr.P.C. In view of the same, the present petition can not be entertained and is hereby dismissed.

November 14, 2022

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(DEEPAK MANCHANDA)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No