

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANIDGARH

112

CRM-M-57365 of 2022
Date of Decision: 08.12.2022

Harbans Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sahil Puri, Advocate
for the petitioner.

GURBIR SINGH, J (ORAL)

Petitioner has filed the present petition under Section 482 Cr.P.C. for issuance of directions to lodge an FIR under Sections 420, 406, 506, 120-B IPC against respondents No.5 and 6, at Police Station Sadar, District Kapurthala on the ground that respondents No.5 and 6 had committed fraud with the petitioner by misrepresenting and duping the petitioner with hard earned money to the tune of Rs.24.50 lakhs approximately. The petitioner submitted an application/representation dated 18.10.2022 to Senior Superintendent of Police Kapurthala (Annexure P-1).

Brief facts of the petition are that the petitioner is 70 years old man and he is an NRI. He is permanent resident of USA in the year 2021 and came to India. He came in contact with respondent No.5 who was a builder. He introduced the petitioner to respondent No.6 and assured him that respondent No.6 was very efficient worker and would do the renovation work with utmost integrity and the petitioner entered into a contract with

them for renovation of the residential building for Rs.27 lakhs. They received a sum of Rs.24.50 lakhs but did not complete the work and immediately left the work and ran away. The petitioner returned from USA and tried to contact them several times but they did not complete the work. The petitioner came to India on 24.08.2022 and submitted an application against these two manipulators to Senior Superintendent of Police Kapurthala-respondent No.4 (Annexure P-1), who marked the same to DSP, Head Quarter, Kapurthala. The written agreement between the parties was effected on 29.08.2022 in which respondents No.5 and 6 agreed that the work would be completed by the petitioner himself and by paying the bill and payment would be made to the petitioner on showing the bill. The petitioner met the DSP, Head Quarter, Kapurthala for implementation of the agreement but he refused to intervene on the ground that he could not interfere in such matters. Respondents No.5 and 6 thus committed fraud with the petitioner to the tune of Rs.24.50 lakhs. The cognizable offence was disclosed.

Section 156 of the Cr.P.C. is as under:-

“(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as above mentioned.”

The inherent jurisdiction can be invoked where no other

remedy is available. In this case, the petitioner can approach the concerned Judicial Magistrate having jurisdiction who is fully empowered to pass orders and to investigate the matter in dispute.

Since the specific remedy is available to the petitioner to invoke the provisions of Section 156(3) Cr.P.C. before the Judicial Magistrate concerned, this petition is not maintainable.

With the above observations, this petition is dismissed.

08.12.2022

D.Bansal

**(GURBIR SINGH)
JUDGE**

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