

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-3240-2023

Date of Decision: January 20, 2023

Pushpa Rani and another

.....Petitioners

Versus

State of Haryana and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: None for the petitioners.

HARKESH MANUJA, J (ORAL)

By way of present petition filed under Section 482 Cr.P.C., prayer has been made for issuance of direction to the official respondents to take legal action against private respondent.

After going through the contents of the paper-book, it is apparent that the dispute between the parties arises out of their rights in the joint family property regarding which civil suit is already pending.

Notice of motion.

Mr. Sumit Jain, Addl.A.G., Haryana, who is present in Court, accepts notice on behalf of the respondent State and raises no objection to the innocuous prayer made in the petition.

I have heard learned State counsel and gone through the paper-book.

Considering the facts and circumstances of this case, that the dispute between the parties being arising out of their rights in joint family property, it would be permissible for the petitioners to approach the Court of Learned Magistrate by invoking the provisions of Section 156 (3), if so

advised and as per the guidelines laid down by the Hon’ble Supreme Court in **Sakiri Wasu Vs. State of UP**, 2007 (5) Law Herald SC 3910. Para 27 being relevant is reproduced hereunder for reference:-

“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 Criminal Procedure Code 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) Criminal Procedure Code before the Magistrate or by filing a criminal complaint under Section 200 Criminal Procedure Code and not by filing a writ petition or a petition under Section 482 Criminal Procedure Code.”

This petition is disposed of with a direction that the petitioner may invoke his remedy under Section 156 (3) Cr.P.C., if so advised.

January 20, 2023
sanjay

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no