

CRM-M – 9176-2023
DECIDED ON:21.02.2023

PETITIONER

RESPONDENTS

Mr. Gagandeep Singh Chinna, AAG, Haryana

SANDEEP MOUDGIL, J

Learned counsel for the petitioner submits that petitioner lodged an FIR NO. 628 dated 25.08.2022 under sections 323, 379-A, 427, 506, and 511 Indian Penal Code against the accused namely Rajesh Dhull against which accused filed an application for anticipatory bail, which was dismissed by Ld. Additional Sessions Judge, Rohtak vide order 23.12.2022 and till today he has not been arrested. He further submits even as per the orders of the Ld. ASJ, Rohtak the investigation by police was seen to be conducted in very casual manner with laxity which is not permissible in law.

Having heard learned counsel for the petitioner and on perusal of the file, this court is of the considerate view that, While exercising powers under Section 482, High Court cannot interfere with the manner of investigation of a case or direct the investigating agency to investigate from a particular angle or to arrest the accused: The same was observed by the Apex Court in “*M.C. Abraham and Another vs State of Maharashtra and Others*” (2003) 2 SCC 649, wherein it has further gone to the extent of saying that investigating agency is the master of investigation and is at liberty to proceed in its desired direction being free from any interference.

The Apex Court in the case of “ *Sakiri Vasu vs State of UttarPradesh and others*” (2008) 2 SCC 409; has held as under:-

“If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154 (3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156 (3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?”

Thus as a sequel to the above it can well be crystallized that when an aggrieved person approaches the court in a petition under Section 482 Cr.P.C., then the court is possessed with enormous powers to do justice or remove injustice. The Court’s vast powers are meant to prevent any abuse of

the process or to secure the ends of justice. These powers must be exercised for the advancement of justice. Ends of justice are always higher than the ends of mere law and for accomplishing that noble goal the courts have rightly been invested with adequate powers. While saying so at the same time it has to be kept in mind that though the powers possessed by the High Court are extremely wide but the very plenitude of the power requires the court to function with greater caution and circumspection in the exercise of those powers. In other words, the power under Section 482 Cr.P.C., is to be exercised, *ex debito justitiae*, ie to do real and substantial justice.

Further the Apex Court in ***“P. Chidambaram v Directorate of Enforcement” 2019 (4) R.C.R. (Criminal) 875*** observed the following:

“63. Investigation into crimes is the prerogative of the police and excepting in rare cases, the judiciary should keep out all the areas of investigation. In “State of Bihar and another v. P.P. Sharma, IAS” and another 1992 Supp. (1) 222, it was held that “The investigating officer is an arm of the law and plays a pivotal role in the dispensation of criminal justice and maintenance of law and order. Enough power is therefore given to the police officer in the area of investigating process and granting them the court latitude to exercise its discretionary power to make a successful investigation...”.

In “Dukhishyam Benupani, Asstt. Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria” (1998) 1 SCC 52, this Court held that

“.....it is not the function of the court to monitor investigation processes so long as such investigation does not transgress provision of law. It must be left to the investigating agency to decide the venue, the timings and the questions and the manner of putting such questions to persons involved in such offences. A blanket order fully

insulating a person from arrest would make his interrogation a mere ritual.”

64. As held by the Supreme Court in a catena of judgments that there is a well-defined and demarcated function in the field of investigation and its subsequent adjudication. It is not the function of the court to monitor the investigation process so long as the investigation does not violate any provision of law. It must be left to the discretion of the investigating agency to decide the course of investigation. If the court is to interfere in each and every stage of the investigation and the interrogation of the accused, it would affect the normal course of investigation. It must be left to the investigating agency to proceed in its own manner in interrogation of the accused, nature of questions put to him and the manner of interrogation of the accused.

65. It is one thing to say that if the power of investigation has been exercised by an investigating officer mala fide or non-compliance of the provisions of the Criminal Procedure Code in the conduct of the investigation, it is open to the court to quash the proceedings where there is a clear case of abuse of power. It is a different matter that the High Court in exercise of its inherent power under Section 482 Cr.P.C., the court can always issue appropriate direction at the instance of an aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide and not in accordance with the provisions of the Criminal Procedure Code. However, as pointed out earlier that power is to be exercised in rare cases where there is a clear abuse of power and non-compliance of the provisions falling under Chapter-XII of the Code of Criminal Procedure requiring the interference of the High Court. In the initial stages of investigation where the court is considering the question of grant of regular bail or pre-arrest bail, it is not for the court to enter into the demarcated

function of the investigation and collection of evidence/materials for establishing the offence and interrogation of the accused and the witnesses.”

Considering the afore-said facts and circumstances and also in view of the case law referred hereinabove, this Court can not interfere with the investigation process, so, this Court declines to exercise its inherent powers and extra ordinary jurisdiction under Section 482 Cr.P.C., to direct the investigating agency to file a status report.

Accordingly, the present petition stands dismissed.

21.02.2023
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>