

2023:PHHC:053184

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-10801-2023

DATE OF DECISION: APRIL 13, 2023

Shiv Kumari

...Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Kanwar Pahul Singh, Advocate,
for the petitioner.

Vivek Puri, J.

1. The petitioner is seeking issuance of directions to the official respondents to register First Information Report and conduct fair and impartial investigation on the complaint/representation dated 10.12.2022 (Annexure P-5).

2. Learned counsel for the petitioner contends that on 10.12.2022, the private respondents armed with weapons had trespass into the land of the petitioner, cultivated the fields by means of tractor and seeds sown by her were destroyed. They had also threatened to kill the petitioner and followed her to her house. They gained entry into the house of the petitioner and they gave beatings to her and her family members. It has been further alleged that the clothes of the petitioner were torn and obscene acts were done with her.

3. Learned counsel for the petitioner further submits that the allegations spelt out in the representation (Annexure P-5) discloses the

commission of cognizable offence, but no action has been initiated on the said representation.

4. In ***Sakiri Vasu vs. State of U.P. and others, (2008) 2 SCC 409***, it has been laid down as following:-

“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? 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. 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.”

5. In the event, there is an allegation of commission of cognizable offence and the police is not registering the FIR, the petitioner can approach the Superintendent of Police under Section 154 (3) Cr.P.C. In the event, the same does not yield any satisfactory result, it is always open to the aggrieved person to approach the concerned Judicial Magistrate as per the provisions of Section 156 (3) Cr.P.C.

6. In view of existence of effective alternate remedy, no reasonable or justified ground is made out for this Court to interfere in the matter.

7. Petition is, accordingly, dismissed.

April 13, 2023
vkd

(Vivek Puri)
Judge

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