

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

110

CRM-M-16808-2023

Date of decision: 10.04.2023

NACHHATAR SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vishavdeep Singh Rana, Advocate
for the petitioner.

DEEPAK MANCHANDA, J.(ORAL)

This petition has been filed under Section 482 Cr.P.C. for issuance of directions to the respondents No.1 to 3 for addition of Sections in FIR No.02 dated 09.01.2023 registered under Sections 341, 323, 506 & 34 of IPC at Police Station Kheri Nodh Singh, District Fatehgarh Sahib with a further prayer for setting up the medical board for conducting proper MLR of the petitioner and his wife for taking medical opinion on the nature of injuries.

Brief facts of the case are that on 08.01.2023, the petitioner's nephew-Jasvir Singh @ Shanty (respondent No.4), his brother-Sukhwinder Singh (respondent No.5) and sister-in-law of the petitioner namely Manjeet Kaur (respondent No.6) were abusing very loudly in front of the petitioner's house and when the petitioner and his wife came out in the street, respondents No.4 to 6 attacked them and gave iron rods blows on the head of the petitioner and his wife and also gave kick blows. Thereafter, when the petitioner and his wife tried to get back in their house respondents No.4 to 6

started throwing bricklings on them and after some time, left the spot along with the said iron rods. Thereafter, son of the petitioner got the petitioner and his wife admitted in the Civil Hospital, Khumano where MLR has been conducted.

Learned counsel for the petitioner contends that multiple injuries have been inflicted upon the petitioner and his wife, MLR of the wife of the petitioner shows that three injuries in which two injuries are kept for the opinion of the surgeon and one injury is kept for the opinion of the dental surgeon. He further contends that the MLR of the petitioner shows one injury, which is on his head is also kept for the opinion of the surgeon. Even though, the injuries are grievous in nature but due to the political pressure and undue interference of respondents No.4 to 6, appropriate sections in FIR No.02 dated 09.01.2023 have not been added and FIR was registered merely under Sections 341, 323, 506 and 34 IPC and on the other hand, cross-case has been registered against the petitioner and his wife. He further submits that aggrieved by the said action, the petitioner submitted the representation dated 01.03.2023 to the police authorities which was registered as UID No.124779 but neither the representation was decided nor any action in pursuance to the prayer made by the petitioner with regard to relevant sections in FIR has been done.

On receipt of advance copy, Mr. P.S. Grewal, DAG, Punjab has put in appearance on behalf of respondents No.1 to 3-State and on instructions submits that the present matter is under investigation and the same is being conducted in accordance with law. In case any evidence is found during investigation corroborating the nature of injuries alleged by the petitioner, the law shall take its own course.

I have heard learned counsel for the parties.

After registration of the FIR, the matter is under investigation and at this stage, this Court cannot issue such directions for addition of sections/offences during investigation. Even otherwise, the petitioner has remedy of filing appropriate application during the trial where the Magistrate has got power under Section 156 (3) Cr.P.C. to monitor the investigation, if it is not done in accordance with law the said remedy is available with the petitioner.

Reliance has been placed on the judgment of Hon'ble Supreme Court in “***Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage & Ors.***” : 2016 (6) SCC 277, wherein it has been held that:-

*“5. This Court has held in ***Sakiri Vasu v. State of U.P. & Others***, reported in AIR 2008 Supreme Court 907, that if a person has a grievance that his F.I.R. has not been registered by police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the concerned Magistrate under Section 156(3), Cr.P.C. If such an application under Section 156(3), CrPC. is made and the Magistrate is, prima facie, satisfied, he can direct the F.I.R. to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the Investigating Officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu's case because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.*

6. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions

and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the concerned Magistrate under Section 156(3), Cr.P.C. and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.”

Keeping in view, the settled proposition, this Court is not inclined to exercise its jurisdiction under Section 482 Cr.P.C. Accordingly, the present petition is dismissed.

April 10, 2023
Nisha-II

(DEEPAK MANCHANDA)
JUDGE

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