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2023:PHHC:095281

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-18322-2023 (O&M)
Date of decision: 25.07.2023

Balwinder Singh

...Petitioner

VS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. Dhruv Dayal, Additional A.G., Punjab.

ARUN MONGA, J. (ORAL)

This is a petition under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') seeking issuance of directions to respondent Nos.1 to 4 to conduct enquiry within time bound manner on representation (Annexure P-7) and register FIR against respondents No.5 to 7.

2. On advance service of copy of petition, learned State counsel appears and under instructions from ASI Parduman Singh submits that petitioner himself had given an undertaking before the police, relevant of the same is reproduced hereinbelow:

"I am not intending to take any action in the matter, which is caused shadow on future prospects of my son and just want to get divorce from my wife. For this purpose, I have filed a court case, a copy of which is submitted before you. Hence, the instant application, filed by me, may be consigned to records without taking any action. Statement got recorded, heard, it is correct.

Copy of the undertaking tendered by state counsel is taken on record and marked as Annexure 'A'.

3. *Prima facie*, dispute thus appears to be purely matrimonial, which is being given a colour of alleged criminal culpability.

4. There is no representation on behalf of petitioner.

5. In any case, in my opinion, the petitioner ought to have first approached learned *Ilaqa*/Area Magistrate under Section 156 (3) Cr.P.C for redressal of his grievance, if any, before directly approaching this Court. Section 156 (3) *ibid* empowers a Magistrate to ensure proper investigation. Even otherwise, ordinarily, in case of a grievance arising out of non-registration of an FIR, the aggrieved can seek recourse to remedy by approaching Superintendent of Police under Section 154(3) Cr.P.C. or any other competent police officer per Section 36 Cr.P.C. Even thereafter, if grievance is yet unmitigated, one can then take judicial recourse by approaching a Magistrate of competent jurisdiction under Section 156(3) Cr.P.C. Not only that, an aggrieved party can choose to file a criminal complaint under Section 200 Cr.P.C., if so advised. Reference may be had to Apex Court judgment in “*Sakiri Vasu versus State of U.P and others*”¹.

6. In the premise, instant petition is disposed of. The petitioner is, however, at liberty to approach the appropriate forum for redressal of his grievance, as aforesaid.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

25.07.2023
Vandana

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

¹2008 (2) SCC 409