

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

108

CRM-M-20419 of 2023

Date of Decision:02.08.2023

Dipanshu

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Paras Jagga, Advocate,
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for issuance of direction to the official respondents to conduct fair and transparent investigation in FIR No.40 dated 25.02.2023, under Sections 307, 379-B, 341, 324, 323, 506, 427, 148, 149 IPC, registered at Police Station Kotwali Patiala, District Patiala.

2. Learned counsel for the petitioner submitted that in the present case the police is not investigating properly and one of the main accused, namely, Tanish Chawla has since not been arrested by the police, although one of the co-accused namely Yuvraj has been arrested. He submitted that he has given a detailed representation (Annexure P-2) to respondent No.3 by way of a registered post but the police has not taken any action in this regard.

3. I have heard learned counsel for the petitioner.

4. The prayer of the petitioner is seeking fair and proper investigation in

the FIR in which one accused has been arrested and one of the other accused has not been arrested. The Hon'ble Supreme Court in Sudhir Bhaskarrao Tambe versus Hemant Yashwant Dhage and others 2016 (6) SCC 277 following Sakiri Vasu versus State of Uttar Pradesh (2008) 2 SCC 409 observed that whenever there is an alternate remedy available to the petitioner, he can move appropriate application before the learned Illaqa Magistrate/Court and the petitioner should normally approach the Illaqa Magistrate since the High Courts are over flooded with such kind of petitions. Thereafter, again the Hon'ble Supreme Court in M. Subramaniam and another v. S. Janaki and another 2020 (16) SCC 728 affirmed the view taken by the Hon'ble Supreme Court in *Sakiri Vasu's* case (supra), wherein it has been observed as under:-

“17. In our opinion section 156(3) CrPC is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) CrPC, though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

18. It is well settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary for its execution.”

5. After considering the submissions made by learned counsel for the petitioner, this Court is of the view that instead of approaching this Court straightway, the petitioner ought to have made an application before the learned Illaqa Magistrate strictly in accordance with law, if so advised.
6. In view of the above, the present petition is dismissed.
7. Needless to say that the petitioner is always at liberty to move an appropriate application in accordance with law before the appropriate Court at an appropriate stage.

(JASGURPREET SINGH PURI)
JUDGE

August 02, 2023
dinesh

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