

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

**CRM-M-27402-2023
DECIDED ON: 29.05.2023**

MAM CHAND**.....PETITIONER**

VERSUS

STATE OF HARYANA AND OTHERS**.....RESPONDENTS****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Yogesh Vashista, Advocate with
Mr. Pankaj Nanhera, Advocate for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 482 of Cr.P.C., for issuance of direction to respondents No.2 and 3 to carry out the fair investigation in FIR No.293 dated 23.04.2021 (Annexure P-1), under Sections 148, 149, 323, 325, 452 and 506 of IPC, 1860, registered at Police Station Surajpur, District Faridabad.

On a query put by this Court with regard to the maintainability of the petition in the light of specific provisions as enshrined under Section 173(8) Cr.P.C., learned counsel for the petitioner prays for withdrawal of the present petition with liberty to avail all remedies as per law available to the petitioner.

On the other hand, learned State counsel has produced two copies of the orders dated 16.11.2022 and 05.04.2023, which shows that an application under Section 190 Cr.P.C., is already pending for inclusion of Section 307 of IPC as additional offence, which has been missed out by the Investigating Agency for the reasons best known to it.

He also informs the Court that there were certain errors

committed by the Investigating Officer against whom a departmental action has been initiated by the Commissionerate of Police, Faridabad range.

In the light of above, this Court is fully convinced that the instant petition, to invoke the jurisdiction under Section 482 Cr.P.C., is not maintainable or in the light of specific remedy made available under the Criminal Procedure Code, as has been observed hereinabove and also in view of the pendency of application on an identical issue, which has been raised before the Court below under Section 190 Cr.P.C., which is listed for 12.07.2023 for filing of reply by the accused.

This Court, is of the considered opinion that the petition is not maintainable. However, faced with the situation learned counsel for the petitioner prays to withdraw the same with liberty to raise all the grievances before the appropriate forum, in accordance with law. Since an application under Section 190 Cr.P.C., is already pending on the same cause of action, there is no occasion for this Court to grant any such liberty, which is otherwise available to the petitioner and in the eventuality of any adverse order so passed by the Illaqa Magistrate in that application, still remedy is available to the petitioner.

In view of the aforesaid observations made hereinabove, petition stands dismissed as withdrawn.

However, no observations with regard to the remedies as liberty as prayed for.

(SANDEEP MOUDGIL)
JUDGE

29.05.2023

Meenu

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