

**In the High Court for the States of Punjab and Haryana
at Chandigarh**

CRM-M-40874-2023

Date of Decision: August 21, 2023

Rajwinder Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sylvester Stephen, Advocate,
for the petitioner.

Vivek Puri, J.

1. The petitioner is seeking issuance of direction to respondents no. 3 to 8 to properly investigate and initiate legal action against the private respondents.
2. I have heard learned counsel for the petitioner and perused the record.
3. Learned counsel for the petitioner contends that on 21.05.2023, the private respondents had committed criminal trespass in the house, inflicted injuries and outraged modesty of the petitioner. The statement of the petitioner (Annexure P-2) was also recorded, but no action has been initiated by the police officials.

4. It has been submitted that the allegations spelt out against the private respondents discloses the commission of cognizable offence, but no action has been initiated by the police officials.

5. 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.”

6. To the similar effect is the observations recorded in **M. Subramaniam and another vs. S. Janaki and another, (2020) 16 SCC 728.**

7. 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 Senior Superintendent of Police under Section 154(3) of the Code of Criminal Procedure. 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) of the Code of Criminal Procedure.

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

Petition is dismissed, accordingly.

August 21, 2023
vkd

(Vivek Puri)
Judge

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