

CRR-2020-2023

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

CRR-2020-2023

Date of decision: 12.09.2023

Narinder Sharma

...Petitioner

Versus

Nandu and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Sh. Sajan Sharma, son of the petitioner in person.

HARNARESH SINGH GILL, J. (ORAL)

1. Challenge in the present revision is to the order dated 29.07.2023 passed by learned Judicial Magistrate Ist Class, Amritsar, vide which application moved by the petitioner under Section 156(3) Cr.P.C., for issuance of directions to S.H.O, Police Station B division, Sultanwind Gate, Amritsar, to register the FIR against the respondents, under Sections 195, 211, 500, 504, 506 and 120-B IPC, has been dismissed.

2. It is the case of the petitioner that he is the neighbour of respondent No.2, who is unnecessarily threatening and torturing the petitioner and his family members; that in the year 2019, respondent No.2 used to roam in the lane alongwith his licensed revolver, and had fired gunshots at the gate of the house of the petitioner, and that licensed revolver of respondent No.2 was cancelled on the ground that he had opened the gunshot in a very irresponsible manner. It is also stated that the complaint filed by respondent No.2 against the petitioner and his family members, under

CRR-2020-2023

the provisions of SC/ST Act, was found to be false. It is further stated that the petitioner approached the police authorities for the registration of FIR against the respondents, but to no avail.

3. I have heard Sh. Sajan Sharma, son of the petitioner-in-person.

4. The prayer made in the application under Section 156(3) Cr.P.C., by the petitioner was for a direction to the Police Station B Division, Sultanwind Gate, Amritsar, to lodge an FIR against the culprits under Sections 195, 211, 500, 504, 506 and 120-B IPC. The learned court below, vide impugned order dated 29.07.2023, dismissed the aforesaid application. A relevant extract of the impugned order dated 29.07.2023 would read as under:

5. *After hearing the arguments and perusing the file, this Court is of the view that an application under Section 156(3) Cr.P.C., can only be filed with regard to the offences which are 'cognizable' in nature. In the present case, the offences mentioned by the complainant under Sections 195/203/211/500/504/506 are all non-cognizable offences and hence, the present application is not maintainable in the eyes of law with regard to these offences.*

6. *Coming now to the remaining offence i.e. criminal conspiracy under Section 120-B IPC, no doubt this offence is cognizable in nature but when this complaint is not made out regarding the main offences involved, the offence of criminal conspiracy also does not survive on its own.*

7. *Since it is not obligatory upon the court to order an investigation under Section 156(3) Cr.P.C., this*

CRR-2020-2023

Court is of the confirmed opinion that the present application is not maintainable and the same is hereby dismissed. However it is hereby made clear that the decision of this application shall not preclude the complainant from filing a separate criminal complaint with regard to the matter in question, as per law. File be consigned to record room.

5. A bare perusal of the impugned order would show that the application filed by the petitioner was dismissed on the ground that except Section 120-B IPC, all the sections as mentioned by the petitioner in his application attract the non-cognizable offences and, therefore, the said application is not maintainable in the eyes of law. The court below has rightly held that when the complaint is not made out regarding the main offences involved, the offence of criminal conspiracy also does not survive on its own.

6. This Court finds that the impugned order passed by the Magistrate is in conformity with law and calls for no interference.

7. Therefore, finding no merit in the present petition, the same is dismissed.

8. Needless to mention that the petitioner would be at liberty to file a criminal complaint with regard to the matter in question, in accordance with law.

12.09.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No