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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43927-2023 (O&M)
Date of decision: 04.09.2023

Baksho Kaur alias Gurbaksh Kaur and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.Mohan S.Chauhan, Advocate, for petitioners.

Mr. Dhruv Dayal, Addl.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.') *inter alia*, seeking issuance of direction to official respondents to take appropriate action on representations dated 09.06.2023, 15.06.2023 and 10.07.2023 (Annexures P-3/T, 4/T and P-8/T respectively) made by petitioners.

2. Succinct facts first, as pleaded in the petition.

2.1 Petitioner no.2 is the brother in law of petitioner no.1 who agreed to sell his residential house measuring 10M-1 Sarsal to son of petitioner no.1 namely Lakhbir Singh son of Gurdeep Singh vide agreement to sell dated 07.06.2023 Annexure P-1/T and the purchaser had paid the entire sale consideration in US Dollar on 06.01.2023 in the bank account of friend of petitioner no.2 namely Avtar Sandhu (Bank ID CC000200141, Account No.009010861480 Bank of Nova Skota 44 King Street West Toronto Ontario MSH ICA Canada). Moreover, petitioner no.2 has also executed a power of attorney dated 07.06.2023 Annexure P-2/T in the favour of petitioner no.1 regarding the said property.

2.2. On 08.06.2023 the petitioner no.2 handed over the possession of the house to petitioner no.1 who thereafter started living in the house. On the said date at around

6:00 pm the private respondent sent 8-9 unknown persons to the house who pushed petitioner no.1, an old age lady and tried to throw her out of the house. This entire incident was reported to respondent no.5 i.e. SHO Police Station Sadar Kapurthala vide application no.124 dated 09.06.2023 Annexure P-3/T. However, no action was taken on the said application.

2.3 Again on 10.06.2023 at around 11:00 am private respondents along with some unknown persons came to the house of the petitioner no.1 and threatened to kill her if she does not vacate the premises. Infact private respondent no.13 i.e. Kala S/o unknown held petitioner no.1 from her neck and pushed her and raised a lalkara that this old lady should be eliminated and started scuffling and pushed the maid of the petitioner no.1 to the floor. Since no action was taken on the above application made by the petitioner no.1 another representation dated 15.06.2023 Annexure P-4/T was given to respondent no. 4 i.e. SSP District Kapurthala whereby entire details of all the incidents were given however again no action was taken by the police.

2.4 Again on 22.06.2023 private respondent no. 6 along with other unknown persons came to the house and threatened petitioner no.1 that if she dares step out of the house she will be killed.

2.5 Instead of protecting the life and liberty of petitioner no.1 and 2 who have been running from pillar to post to save themselves, a completely baseless and illegal FIR No. 52 dated 22.06.2023 Police Station Sadar Kapurthala U/s 457, 380, 341 and 506 of IPC, 1860 was registered against the petitioners at the behest of the private respondent when infact no action till date has been taken by the official respondents on the different applications given by the petitioners. Vide representation dated 10.07.2023 Annexure P-8/T petitioner no.1 wrote to respondent no.3 i.e. DIG, Jalandhar Range, Jalandhar seeking protection of the life and liberty of the petitioners and seeking action against the private respondents for hitting her and threatening to eliminate her if she does not give up the possession of her house.

2.6 Again on 20.07.2023 some unknown persons and some police officers tried to visit the house of petitioner no.1 and photographs and CCTV footage of around 7:30/

8:00 am showing the police officials roaming around is placed on record as Annexure P-9. 12. That the threat perception is such that the petitioners no. 1 and 2 had to get their registry token no. 202300454761 cancelled as the private respondent no.6 had threatened the witnesses of the sale deed. Petitioner no.2 wrote a representation dated 14.07.2023 Annexure P-10/T to Naib Tehsildar to cancel the registry token no. 202300454761. Petitioner no.2 went to the Naib Tehsildar with his advocate i.e. petitioner no. 3 to get the registry token cancelled on 14.07.2023. However, the private respondent no. 6 and her relatives attacked the petitioner no. 2 and 3 regarding which a representation dated 14.07.2023 was given to SSP, Kapurthala by the petitioner no. 2 and the same was merely forwarded to SHO i.e. respondent no.5 but no action was taken on the same. The true translated copy of application dated 14.07.2023 is placed on record as Annexure P-11/T. Hence, the present petition.

3. *Per contra*, learned State counsel strenuously opposes the prayer made.

4. I have heard learned counsel for the parties and gone through the case file.

5. Be that as it may, 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., as was done by the petitioner in the instant case. 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, no ground is made out to entertain this petition, which is consequently 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

04.09.2023

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