

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.43324 of 2023
Date of Decision: 08.11.2023

Manveerpreet Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Pritpal Singh Miglani, Advocate,
for the petitioner.

MANISHA BATRA, J.

1. The instant petition has been filed by the petitioner under Section 482 of Cr.P.C. for giving directions to the respondents No.2 and 3 to conduct fair, transparent and impartial enquiry/investigation on the complaint which is stated to have been submitted by the petitioner before the respondent No.3 (Annexure P-1) and the statement as recorded by the petitioner before the police. It is submitted by the petitioner that she owns some land at Village Jassoana which is abutting her residential house. On the evening of 22.06.2023, five persons namely Gurbachan Singh son of Jarnail Singh, Jaswinder Singh son of Gurbachan Singh, Gurdas Singh son of Jaswinder Singh, Ghola Singh son of Banta Singh and Gurpal Singh son of Amarjit Singh removed safeda trees existing on the common path of her property. She tried to stop them and on this, all the above named person started hurling abuses to her. They even left a dog to chase the petitioner away from them. They removed the safeda trees into tractors from the spot. On her resistance, they opened assault upon her

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and her T-shirt was torn off. Injuries were sustained by her at their hands. She reported the matter to the police on phone. Some police officials reached there but no action was taken. She accordingly made prayer for directing the respondents No.2 and 3 to conduct fair, transparent and impartial enquiry into the matter.

2. I have heard learned counsel for the petitioner in this petition at the preliminary stage and have also perused the file thoroughly.

3. Learned counsel for the petitioner contends that the allegations levelled by the petitioner against the private respondents constitute cognizable offences but the police authorities are not registering FIR in view thereof and, therefore, he submitted that the official respondents were to be directed to register FIR against the private respondents.

4. In view of the submissions as made by the petitioner, the question that arises for consideration is as to whether this Court is required to issue any direction for conducting fair and transparent enquiry/investigation in the matter where no FIR has been registered by the police so far. In my considered opinion, this question stands answered in view of a catena of judgments pronounced by Hon'ble Supreme Court holding that the remedy for a person having grievance that his FIR has not been registered by the police or the same having been registered, proper investigation is not being done, is not to approach the High Court but to go to the Magistrate concerned under Section 156 (3) of Cr.P.C. Reference in this regard can be made to **Sakiri Vasu v. State of U.P.**, (2008) 2 SCC 409. Reference can also be placed upon **Aleque Padamsee and others v. Union of India and others**, (2007) 6 SCC 171, wherein it was observed by the Hon'ble Supreme Court that in case of non-registration of FIR by the police,

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the aggrieved party can lay a complaint before the Magistrate under Sections 190 and 200 of Cr.P.C. and the writ petition seeking direction to the police to register the case is not to be entertained. Reliance is further placed upon **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and others**, (2016) 6 SCC 277, wherein it was observed by Hon’ble Supreme Court that if proper investigation is not being done by the police then the remedy for the aggrieved person is not to go to High Court but to approach the Magistrate concerned under Section 156 (3) of Cr.P.C. as it is the Magistrate who can give direction for registration of FIR and even to conduct proper investigation to be done.

5. In view of the ratio of law as laid down in the above cited cases, it is explicit that the instant petition seeking issuance of direction to the police for conducting investigation on the complaint filed by the petitioner is not maintainable before this Court. As a sequel to the discussion as made above, it follows that the petition in hand deserves dismissal on the ground of its not being maintainable before this Court.

6. Accordingly, the same is dismissed.

08.11.2023
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No