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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52011-2023 (O&M)
Date of decision: 13.10.2023

Rehmati

...Petitioner

VERSUS

State of Haryana and others

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Farukh Abdullah, Advocate for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for issuance of appropriate directions to respondents no.2 and 3 for taking appropriate action against the private respondents in accordance with law for committing fraud and forgery with the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner had given a representation vide Annexure P-4 to the SHO, Police Station Firozpur Jhirka, District Mewat for taking strict action against the private respondents. He submitted that there had been a fabrication of an agreement to sell regarding which when a suit for specific performance was filed by the private respondents only then the petitioner came to know that a fraud has been committed and therefore, legal action may be taken against the private respondents.

3. I have heard the learned counsel for the petitioner.

4. The grievance of the petitioner is that qua her a fraud has been committed by the private respondents with regard to an agreement to sell. In case the petitioner is aggrieved that the private respondents have committed an offence, then the petitioner always has an alternate remedy to file any criminal complaint etc. before the learned Illaqa Magistrate. He cannot straightway come to the High Court for invoking its inherent jurisdiction under Section 482 of the Code of Criminal Procedure.

5. Hon'ble Supreme Court in ***Sakiri Vasu versus State of Uttar Pradesh and another (2008) 2 SCC 409*** observed as under:

“25. We have elaborated on the above matter because we often find that when someone has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes to the High Court to file a writ petition or a petition under [Section 482](#) Cr.P.C. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters, and relegate the petitioner to his alternating remedy, firstly under [Section 154\(3\)](#) and [Section 36](#) Cr.P.C. before the concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under [Section 156\(3\)](#).

26. 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?

27. 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.](#)

28. 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.”

7. Apart from the above, a persual of the present petition and the so called representation Annexure P-4 attached by the petitioner in the present petition would show that there is nothing on the record to show that the aforesaid representation which is purported to be dated 27.07.2023 has been given to any of the official respondents or even the SHO who is the addressee in the aforesaid representation. Neither any registered post AD receipt nor any email has been mentioned even in the averments made in the petition. Therefore, this Court is of the view that the petitioner has otherwise also approached this Court without apprising the concerned police official or even any higher officer for redressal of her grievances.

8. In view of the above, the present petition is devoid of any merit and therefore, the same is hereby dismissed. However, the petitioner shall always be at liberty to invoke her alternate remedy by either filing any criminal complaint if so permissible under the law before the appropriate Court or before any authority including any police authority.

13.10.2023
rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No