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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54339-2023
Date of decision: 15.11.2023

BANARSI DASS

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Gourav Pal Garttan, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. seeking issuance of a direction to respondents No.2 to 4 to investigate and inquire the present matter thoroughly in case FIR No.319 dated 07.07.2023 (Annexure P-1), under Sections 323, 325 and 34 of the IPC, registered at Police Station Kurukshetra University, Kurukshetra, District Kurukshetra, Haryana and file the final report against the accused persons i.e. respondents No.5 and 6 before the learned Area Magistrate.

2. Learned counsel for the petitioner submitted that the petitioner has filed a representation/complaint dated 12.10.2023 (Annexure P-2) to respondent No.3-Superintendent of Police, Kurukshetra, District Kurukshetra, Haryana and the same was also sent by way of an e-mail on 19.10.2023 but no action has been taken till date and the petitioner is seeking fair investigation in the present case.

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

4. A perusal of the aforesaid representation Annexure P-2 and accompanying Annexure P-3, which is the e-mail sent on 19.10.2023 would show that the same was sent to the Superintendent of Police, Kurukshetra, District Kurukshetra, Haryana. The petitioner has filed the present petition on 19.10.2023 i.e. on the date when the aforesaid e-mail was sent to the Superintendent of Police, Kurukshetra, District Kurukshetra, Haryana and also averred that no action has been taken till date by the police authorities. It is surprising as to how the Superintendent of Police, Kurukshetra, District Kurukshetra, Haryana will take an action on the same very date when the aforesaid e-mail is sent and therefore, on this ground itself the present petition is not maintainable.

5. Apart from the above, a perusal of Annexure P-2 would show that it is so alleged by the petitioner that on 02.07.2023, he along with his son was working in the field and the accused persons came on the spot and attacked the petitioner and his son with rods and arms and hit on the shoulder and arm of the petitioner and on the head of the son of the petitioner. Thereafter, FIR was registered on 07.07.2023 under Sections 323, 325 and 34 of the IPC at Police Station Kurukshetra University, Kurukshetra, District Kurukshetra, Haryana against the accused persons and the said accused persons have threatened the petitioner and pressurized him to withdraw the aforesaid FIR registered against them and therefore, the petitioner is seeking fair investigation in the present case.

6. 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. The petitioner instead of filing an appropriate application before the learned Illaqa Magistrate has straightaway come to this Court at the drop of a hat and hurriedly. It is a settled law that even for seeking prayer for impartial investigation, an application can be filed before the concerned Illaqa Magistrate especially when FIR itself is pending. There is no extraordinary ground taken by the petitioner for invoking the jurisdiction of this Court under Section 482 Cr.P.C.

8. Consequently, finding no merit in the present petition, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

15.11.2023
Chetan Thakur

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