

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(111)

CRM-M-58944-2022

Date of Decision: 31.01.2023

Virender Singh Joon

--Petitioner

Versus

State of Haryana & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.K. Jindal, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of order dated 3.8.2022 passed by learned JMIC, Bahadurgarh in CRM-711-2022, whereby the complaint under sections 323, 427, 452, 506 IPC with a request to send the same to respondent no.3 under section 156(3) Cr.P.C for registration of FIR, has been declined.

Learned counsel for the petitioner submits that the complaint was filed by the petitioner. Instead of sending the same to the SHO concerned under section 156(3) Cr.P.C for registration of the FIR, prayer has been declined by the learned JMIC, Bahadurgarh, which is unsustainable in the eyes of law. He submits that the complaint filed by the petitioner discloses the commission of a cognizable offence of serious nature which requires a thorough investigation by the police but the same has not been appreciated by the court below. It is submitted that the petitioner is owner of land measuring 76 kanal 18 marla situated in the revenue estate of Village Khera Musalman, District Jhajjar. The actual physical possession of the land is with the complainant which is reflected in the girdawari as well. He submits that on 2.1.2022, 15-20 unknown persons came in a car and tractor and tress passed into the land, assaulted his uncle

and destroyed the crops and weighing bridge with the help of a JCB. It is submitted that despite number of instances no action was taken by the police. Counsel submits that all the allegations constitute a cognizable offence therefore the prayer was made to learned JMIC for sending the complaint to SHO concerned for registering the FIR, however, the same was wrongly rejected vide impugned order dated 3.8.2022. Counsel submits that learned Magistrate concerned wrongly relied upon the status report filed by the concerned SHO, wherein it was mentioned that the petitioner is habitual of filing false complaints and there was no substance in the submissions made by him. It is submitted that the registration of the FIR was imperative to advance cause of justice. Counsel relies upon the Constitution Bench of the Hon'ble Supreme Court in ***Lalita Kumari Vs. Govt. of UP and others in Writ Petition (Criminal) No.68 of 2008 decided on 12.11.2013*** to submit that registration of the FIR was a must and thus the impugned order deserves to be quashed.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

Evidently the petitioner had filed a complaint under Section 156(3) Cr.P.C for registration of the FIR, however, learned Magistrate concerned on hearing counsel for the petitioner, did not find merit in the arguments advanced and declined the same vide impugned order. A perusal of the record would show that the learned Magistrate has duly appreciated the complaint filed and has passed the impugned order after appreciating the attending facts and circumstances of the case. Status report was called from the concerned SHO, wherein it was found mentioned that the property in question was in the name of Chaman Lal son of Pyare Ram. The

complainant was not the owner of the land rather FIR No.195 of 2019 under sections 420, 467, 468, 471 IPC Police Station, Sadar Bahadurgarh has been registered against the complainant. It was found by the investigating agency that the complainant is habitual of filing frivolous complaints and there was no truth in the allegations made in the complaint. It was further mentioned that a civil litigation was pending between both the sides and the suit filed by the complainant was dismissed in default. Resultantly the Magistrate concerned did not find any merit in the complaint and rather the same was treated as a private complaint and the case was fixed for leading the preliminary evidence of the complainant. For the appreciation of the controversy involved a perusal of Section 190 Cr.P.C is relevant, which is reproduced hereunder:-

“190. Cognizance of offences by Magistrates.

(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub- section (2), may take cognizance of any offence-

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub- section (1) of such offences as are within his competence to inquire into or try.”

Upon receiving the complaint the Magistrate has three options, which are as under:-

- (i) he may accept the report and drop the proceedings or
- (ii) he may disagree with the report and taking the view that there

is sufficient ground for proceeding further, take cognizance of the offence and issue process or

(iii) he may direct further investigation to be made by the police under sub-section (3) of Section 156.

I am supported by the Hon'ble Supreme Court judgement in case of *Bhagwant Singh Vs. Commissioner of Police & another 1985(2) SCC 537*. In the case in hand learned Magistrate before passing the impugned order had sought the status report from the concerned police station and thereafter exercised one of the options available to him by taking cognizance on the complaint filed.

By weighing the facts and circumstances of the case on the anvil of law settled, this court does not find any infirmity in the option exercised by the learned Magistrate and the order passed. Resultantly, the petition being devoid of any merit is accordingly dismissed.

(RAJESH BHARDWAJ)
JUDGE

31.01.2023
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No