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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59123-2023
Date of decision: 23.11.2023

MUHAMMAD SHAH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. A. S. Sidhu, 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 directing the respondents for speedy and expeditious completion of investigation and presentation of charge-sheet/challan in FIR No.82 dated 03.06.2021, under Sections 323, 341, 506, 147 and 149 of the IPC, registered at Police Station Balongi.
2. Learned counsel for the petitioner submitted that in the present case, the aforesaid FIR was registered on 03.06.2021 but no further progress has taken place in the investigation process. He further submitted that a representation was given to the Senior Superintendent of Police, SAS Nagar, Mohali, Punjab in this regard vide Annexure P-2 dated 07.11.2023. He also submitted that the allegations in the FIR were pertaining to beatings caused to the petitioner and fair and impartial investigation has not been done by the police in the present case and therefore, direction may be issued by invoking extraordinary jurisdiction of this Court under Section 482 Cr.P.C. for speedy and expeditious completion of the investigation.

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

4. The prayer made by the learned counsel for the petitioner deserves to be rejected on two grounds.

5. Firstly, the purported representation Annexure P-2, which is stated to be given to the Senior Superintendent of Police, SAS Nagar, Mohali, Punjab is dated 07.11.2023 and vide Annexure P-3, postal receipts by way of registered post have been attached which is of the same date i.e. 07.11.2023. The argument of the learned counsel for the petitioner is that despite representation Annexure P-2 being given to the Senior Superintendent of Police, SAS Nagar, Mohali, Punjab, no action has been taken in this regard till date. However, the present is a petition which has been filed on 20.11.2023 i.e. after a gap of only 13 days and it is just possible that even such representation by way of a registered post may or may not have been received in such a short span of time by the office of the Senior Superintendent of Police, SAS Nagar, Mohali, Punjab. Whenever a direction is to be sought for considering the representation/complaint, at least some time gap has to be given to the concerned authorities but in a hush-hush manner the present petition has been filed just after a period of 13 days.

6. Secondly, the prayer of the petitioner in the present petition is for seeking completion of investigation in the aforesaid FIR. However, the petitioner was always within his rights to have filed an appropriate application before the learned Illaqa Magistrate in this regard instead of rushing to the High Court for invoking its extraordinary power under Section 482 Cr.P.C.

7. 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 police officers concerned, and if that is of no avail, by approaching the Magistrate concerned 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 police officers concerned, 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.”

8. Thereafter, again the Hon'ble Supreme Court in **M. Subramaniam and another versus S. Janaki and another, 2020 (16) SCC 728** affirmed the view taken by the Hon'ble Supreme Court in **Sakiri Vasu's case (supra)**, wherein it has been observed as under:-

“17. In our opinion section 156(3) CrPC is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an FIR and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) CrPC, though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

18. It is well settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted

by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary for its execution.”

9. In view of the aforesaid facts and circumstances of the present case, this Court is of the view that just at the drop of a hat and hurriedly the petitioner has rushed to this Court for the purpose of invoking its extraordinary power under Section 482 Cr.P.C. and apart from the above, even a representation which is purported to have been given to the Senior Superintendent of Police, SAS Nagar Mohali, Punjab dated 07.11.2023 (Annexure P-2) by way of a registered post may or may not have been received by the office of the Senior Superintendent of Police SAS Nagar, Mohali, Punjab but after a period of 13 days, the present petition has been filed.

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

23.11.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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