

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11075-2024

Date of decision: 12.03.2024

Talima	V/s	Petitioner
State of Haryana and others		Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. M.D. Khan, Advocate and
Dr. Kirandeep Kaur, Advocate for the petitioner.

SUMEET GOEL, J.

1. The present petition has been filed under Section 482 of Cr.P.C. of 1973 with a prayer, primarily for, issuance of directions to respondent Nos.1 to 3 for registration of FIR on the basis of a complaint dated 10.02.2024 (copy whereof has been appended as Annexure P-2 with the present petition) & for further directions for handing over the investigation of such FIR, after the same having been registered, to any senior officer or independent investigation agency.
2. Learned counsel for the petitioner has argued that the petitioner presented a complaint to SHO, Police Station Women, Nuh, District Mewat, Haryana on 10.02.2024 wherein she has made allegations of rape, harassment etc. against the persons named therein. It has been argued that the said complaint clearly brings out the factum of cognizable offence(s) having been committed and hence the Police ought to have registered an FIR but the same has not yet been done. Learned counsel has further argued that a representation dated 17.02.2024 was also made to the Superintendent of Police, Nuh, District Mewat, Haryana for taking legal action against the persons named in the above-said complaint/representation but no action has

yet been taken. Thus, the petitioner has been constrained to file the instant petition seeking the prayer(s) as indicated hereinabove.

Prime Issue

3. The prime issue for determination in the present petition is whether this Court ought to issue direction(s), under Section 482 of Cr.P.C. of 1973, for registration of FIR in furtherance of the complaint made by the petitioner to the concerned SHO as also the representation made to the concerned Superintendent of Police. The analogous legal issue that arises for consideration in the present petition is whether a person/ complainant ought to approach the High Court under Section 482 of Cr.P.C. of 1973 for issuance of directions for registration of FIR *or* such person/ complainant ought to approach the concerned Illaqa/Jurisdictional Magistrate in view of Section 156(3) of Cr.P.C., 1973 in the first instance.

Relevant Statutory provisions

4. Code of Criminal Procedure, 1973

Section 156 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C., 1973') reads as under:-

“156. Police officer's power to investigate cognizable case.-(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.”

Section 482 of the Code of Criminal Procedure, 1973 reads as under:-

“482. Saving of inherent power of High Court.- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

Code of Criminal Procedure, 1898

Section 561-A of the Code of Criminal Procedure, 1898 reads as under:-

“561A. Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

Relevant Case Law

5. The precedents germane to the issue(s) in question are as follows:

I. Re: ***Power(s) of Magistrate under Section 156(3) of Cr.P.C.,1973***

(i) In a judgment titled as ***Sakiri Vasu vs. State of U.P. and others, 2008(2) SCC 409***, the Hon’ble Supreme Court has held as under:-

"17. In our opinion Section 156(3) Criminal Procedure Code 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 F.I.R. 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) Criminal Procedure Code, 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 to its execution.

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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 Criminal Procedure Code. 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 Criminal Procedure Code before the concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under Section 156(3).

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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 Criminal Procedure Code 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) Criminal Procedure Code before the Magistrate or by filing a criminal complaint under Section 200 Criminal Procedure Code and not by filing a writ petition or a petition under Section 482 Criminal Procedure Code.

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.”*

(ii) In a judgment titled as ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhangre & Ors.***, 2016(6) SCC 277, the Hon'ble Supreme Court has held as under:-

*“5. This Court has held in **Sakiri Vasu vs. State of U.P. & Others**, reported in AIR 2008 SC 907, that if a person has a grievance that his F.I.R. has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the concerned Magistrate under Section 156(3), Cr.P.C. If such*

an application under Section 156(3), Cr.P.C. is made and the Magistrate is, prima facie, satisfied, he can direct the F.I.R. to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the Investigating Officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu's case because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

6. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the concerned Magistrate under Section 156(3), Cr.P.C. and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation."

(iii) A three Judges bench of the Hon'ble Supreme Court in a judgment titled as ***M. Subramaniam and another vs. S. Janaki and another*** **2020(16) SCC 728**, has held as under:

"6. The said ratio has been followed in Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others, (2016) 6 SCC 277, in which it is observed.

"2. This Court has held in Sakiri Vasu v. State of U.P., that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC, 1973. If such an application under Section 156(3) CrPC, 1973 is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu case because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3. *We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC, 1973 and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.*”

II. Re: ***Whether registration of FIR is mandatory under the scheme of Cr.P.C. of 1973 if information discloses commission of a cognizable offence.***

(i) A Five Judges bench of the Hon'ble Supreme Court in a judgment titled as ***Lalita Kumari vs. Govt. of U.P. and others, 2014(1) SCC (CRI) 524***, has held as under:-

“111. *In view of the aforesaid discussion, we hold:*

- i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*
- ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.*
- iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.*
- iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.*
- v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.*
- vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case.*

The category of cases in which preliminary inquiry may be made are as under:

a) Matrimonial disputes/ family disputes

b) Commercial offences

c) Medical negligence cases

d) Corruption cases

e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

(III) **Re: *Nature, scope and ambit of powers of High Court under Section 482 of Cr.P.C., 1973***

(i) A Five Judges bench of the Hon'ble Supreme Court in a judgment titled as ***State of U.P. vs. Mohammad Naim, 1964 AIR (Supreme Court) 703***, has held as under:

“7.....It is now well settled that the section confers no new powers on the High Court. It merely safeguards all existing inherent powers possessed by a High Court necessary (among other purposes) to secure the ends of justice. The section provides that those powers which the court inherently possesses shall be preserved lest it be considered that the only powers possessed by the court are those expressly conferred by the Code and that no inherent powers had survived the passing of the Code.....”

(ii) A three Judges bench of the Hon'ble Supreme Court in a judgment titled as *State of Karnataka vs. M. Devendrappa, 2002(3) SCC 89*, has held as under:

*“6. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All Courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle "**quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae, esse non potest**" (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a Court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself. It is to be exercised **ex debito justitiae** to do real and substantial justice for the administration of which alone Courts exist. Authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent abuse. It would be an abuse of process of Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers Court would be justified to quash any proceeding if it finds initiation/continuance of it amounts to abuse of process of Court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the Court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”*

(iii) A Three Judges Bench of the Hon'ble Supreme Court in a judgment tilted as ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. Vs. State of Gujarat and Anr., 2017(9) SCC 641*** has held as follows:-

“15. The broad principles which emerge from the precedents on the subject, may be summarized in the following propositions:-

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognizes and preserves powers which inhere in the High Court;

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(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;”

Analysis (re law)

6. The aspect of powers of a Magistrate under Section 156(3) of Cr.P.C. have been dealt with by the Hon'ble Supreme Court in the case of **Sakiri Vasu** (supra), wherein, it has been held that the Magistrate has sufficient powers to direct for registration of FIR as also monitor the Investigation thereof. The Hon'ble Supreme Court in the case of **Sudhir Bhaskarrao Tambe** (supra), has further held that the Magistrate can issue directions for proper investigation and can even direct for change of investigating officer, exercising his judicial discretion. A Three Judges Bench of the Hon'ble Supreme Court in the case of **M. Subramaniam** (supra) has reiterated the ratio-decidenti of the judgments in the cases of **Sakiri Vasu** (supra) and **Sudhir Bhaskarrao Tambe** (supra). Therefore, the statutory provision of Section 156(3) of Cr.P.C.; when read in the light of the dicta of above said judgments, clearly shows that the Magistrate has been endowed with all requisite powers including for directing for registration of FIR, monitor investigation in such FIR as also direct for change of

investigating officer if circumstances of the case so require. These powers, of course, are required to be exercised in consonance with the well settled norms of judicial discretion.

7. The issue that next requires to be addressed is, as to whether the High Court has jurisdiction under Section 482 of Cr.P.C., 1973, to entertain any plea seeking registration of FIR and/or constitution of an SIT (Special Investigating Team) and/or change of Investigating Officer for conducting investigation in a FIR & prayers of akin nature *once* the Magistrate has sufficient powers to adjudicate these pleas.

8. This aspect assumes significance as also relevance of a very high degree since this Court faces incessant petitions being filed wherein prayer(s) of above kind are made. There is not an iota of doubt that the Hon'ble Supreme Court has clearly laid down in the case of **Lalita Kumari** (supra), the principles of law, as to in what circumstances and manner an FIR ought to be registered by the Police upon a complaint being made before it. The pertinent question, thus arises, is as to what is the appropriate remedy(s) available to a complainant in case police refuses to proceed further and/or register FIR in terms of ratio decidendi of the judgment of the Hon'ble Supreme Court in the case of **Lalita Kumari** (supra).

9. To consider this aspect, it would be apposite to delve into the nature, scope and ambit of powers of the High Court under Section 482 of Cr.P.C., 1973.

9.1. Section 482 of Cr.P.C. of 1973 is, in fact, statutory recognition of the doctrine of inherent jurisdiction of a High Court. This doctrine received statutory recognition, for the first time, when Section 561-A was inserted in Criminal Procedure Code of 1898 by way of Code of Criminal

Procedure (Amendment Act) of 1923. By way of introduction of Section 561-A in Cr.P.C., 1898, the legislature recognized the existence of inherent powers in a High Court and provided that nothing in the Code can be deemed to limit inherent powers of a High Court to make such order(s) as would be necessary to give effect to any order under the Code *or* to prevent abuse of process of any Court *or* to otherwise secure the ends of justice. The Hon'ble Supreme Court in the judgment of **Mohammad Naim** (supra) has held that this Section gives no new powers to a High Court; it only provides that powers which the High Court already inherently possesses, shall be preserved and a provision has been inserted into statute book lest it be misconstrued that only those powers are possessed by the High Court which are expressly conferred by the Code of Criminal Procedure & that all such inherent powers stand extinguished after the Code come into force. In essence, this provision refers to residuary plenary powers of High Court to do justice. It is notable that such inherent powers, which received statutory recognition at the end of legislature, empowers a High Court to exercise such inherent jurisdiction not only in respect of proceedings before it but also in respect of proceedings in the Subordinate Courts. The legislature, acknowledging the significance and importance of such inherent powers, chose to keep alive the provision of Section 561-A of Cr.P.C., 1898 in the Cr.P.C. currently in vogue i.e. Cr.P.C. of 1973 *albeit* only by renumbering the provision as Section 482.

9.2. The important aspect that immediately next craves attention is as to what are the “*inherent powers of a High Court*” recognized under Section 482 of Cr.P.C., 1973. At the outset, it deserves to be noticed that these inherent powers are not defined in the statute. Inherent powers are

essentially those powers which *ipso facto* exist in the Court by virtue of its existence. The phraseology of inherent powers as defined in the dictionaries is as under:-

- (a) *Black's Law Dictionary* defines 'inherent powers' as "Existing in something as permanent, essential, or characteristic attribute."
- (b) *Webster's New World Law Dictionary* defines it as "A power that must be deemed to exist in order for a particular responsibility to be carried out."
- (c) *Oxford (Advanced Learner's Dictionary)* defines "inherent" as "existing as a natural or permanent feature".

The Hon'ble Supreme Court in case of "**Devendrappa**" (supra) has relied upon the maxim of "***quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae, esse non potest***" (when the law gives a person anything it gives him that without which it cannot exist) to hold that the inherent powers of a High Court are all such powers which are necessary to do the right and to undo a wrong in course of administration of justice. The Hon'ble Supreme Court, in this judgment, has further referred to the maxim "***ex debito justitiae***" to say that such powers are ones given to do real and substantial justice for which purpose alone High Court exists. The Hon'ble Supreme Court in the judgment of **Parbatbhai** (supra) has held that the powers under Section 482 of Cr.P.C. of 1973 are aimed at preserving the inherent powers of the High Court to prevent an abuse of the process of any Court or to secure the ends of justice.

9.3 A cumulative reading of the above said would show that the inherent powers of a High Court are powers which are incidental replete powers, which if did not exist so, the Court would be obliged to sit still and helplessly see process of law and Courts being abused for the purpose of injustice. These powers of a High Court hence deserve to be construed with

the widest possible amplitude. It is trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner should, therefore, have unfettered power to deal with situations which, though not expressly provided for by the law, need to be dealt with to prevent injustice or an abuse of the process of law and Courts.

9.4. Accordingly, it is unequivocal that the inherent powers of a High Court; recognized by way of Section 482 of Cr.P.C. of 1973; are powers which are unbridled, unfettered and plenary in nature. These powers are to be exercised keeping in view the following salutary purposes *viz*; (a) to give effect to any order passed under the code (b) to prevent abuse of process of any Court (c) to otherwise secure the ends of justice. It is neither conceivable nor desirable to lay down any exhaustive set of guideline(s) to govern the exercise of this plenary inherent jurisdiction, however alluring this aspect may be. Such exercise of power would definitely be dependent upon the factual matrix of the case which the court is seisin of.

9.5. The factum of a Magistrate having requisite powers to direct for registration of FIR, monitor investigation therein as also order to change of investigating Officer cannot be construed to be *ipso facto* taking away the innate powers of the High Court under Section 482 of Cr.P.C., 1973 to issue such direction(s). Ordinarily, a litigant/ complainant ought to approach the Magistrate in the first instance for issuance of such like direction(s) but the same does not divest the High Court of its inherent plenary jurisdiction. The tendency to approach the High Court directly even when an independent and

robust mechanism for dispensation of justice is available in the Illaqa/Jurisdiction Magistrate is worrisome. It avoidably prolongs the grant of relief(s) that the litigant seeks apart from adding to the cost of litigation. The Magistracy is specifically put in place for expeditious and accessible judicial remedy within the reasonable and easy reach of the litigant. Bypassing the Magistracy, without a justifiable cause, is patent subversion of judicial authority in general. Instead knocking at the doors of the High Court directly indicates indifference towards the judicial process. Indubitably, the volume of such petitions pouring into the High Court is stalling the working as also proficiency of the Constitutional Court. Accordingly, unless there are accentuating facts/ circumstances, a litigant/ complainant ought not to approach the High Court under Section 482, Cr.P.C. 1973; in the first instance; seeking direction(s) for registration of FIR, fair investigation therein etc. This Court must hasten to add a word of caution that a petition filed under Section 482 of Cr.P.C. thereby invoking the inherent powers of the High Court for above said like prayer(s) is “*maintainable*” in *stricto-sense* but it may not be “*desirable*” to entertain such a petition lest High Court may be flooded with litigations of this kind. To say, by way of simile, the difference between “*maintainability of a petition*” and “*desirability to entertain a petition*” is as distinct and stark as the difference between chalk and cheese.

10. As a result of above discussion, the following postulates emerge:

- I) *Ordinarily*, an applicant/complainant ought to approach, in the first instance, the Court of Illaqa/Jurisdictional Magistrate to seek prayer(s) for issuance of direction(s) for registration of FIR, monitoring of investigation in FIR as also other prayers of akin nature.

II) An Illaqa/Jurisdictional Magistrate has, by virtue of section 156(3) of Cr.P.C. of 1973, the requisite powers and jurisdiction to grant plea(s) for issuance of direction(s) for registration of FIR, monitoring of investigation in an FIR, change of investigating officer and prayer(s) of alike nature.

III) In a given case, if the facts/circumstances of such case so warrant, the High Court is well within its jurisdiction to entertain and consider plea(s) seeking registration of FIR, monitoring of investigation in a FIR, constituting an SIT (Special Investigating Team), change of investigating officer & all such prayer(s) of such kind and nature. However, it would be prudent that an applicant/complainant, while seeking to invoke the jurisdiction of the High Court under Section 482 of Cr.P.C. in the first instance seeking prayer(s) of above nature, shows sufficient cause for not having approached the Illaqa/Jurisdictional Magistrate in the first instance.

IV) The High Court, in its inherent jurisdiction under Section 482 of Cr.P.C has unbridled, unfettered and plenary powers. The only restriction on exercise of such powers is self-restraint. No inflexible and comprehensive guidelines can conceivably be enumerated governing the exercise of these intrinsic powers by High Court under Section 482 of Cr.P.C. There is no gainsaying that the nature, mode and extent of such exercise of powers by High Court under Section 482 of Cr.P.C shall depend upon the judicial discretion exercised by the High Court in the facts and circumstances of a given case.

Analysis (re-facts of present case)

11. Now this Court reverts to the facts of the present case.

12. The prime prayer made in the petition is for issuance of directions to the respondents for registration of FIR against the person(s) named in the complaint dated 10.02.2024 made to the SHO, Police Station Women, Nuh and representation dated 17.02.2024 made to Superintendent of Police, District Mewat at Nuh. The petitioner (herein) who claims herself to be the victim of beatings, sexual assault etc. has chosen to invoke the

inherent jurisdiction of this Court under Section 482 of Cr.P.C. without even referring to, much less disclosing any impediment being faced by her in approaching the concerned Illaqa/Jurisdictional Magistrate by invoking Section 156(3) of Cr.P.C., 1973. In the considered opinion of this Court, the petitioner ought to have approached the concerned Illaqa/Jurisdictional Magistrate in the first instance who is well empowered to grant the substantial relief(s) sought for in the present petition. No such accentuating facts/circumstances have been brought forward by the petitioner which may warrant interference by this Court under Section 482 of Cr.P.C. Accordingly this Court does not find the present case a fit one for exercise of its jurisdiction under Section 482 of Cr.P.C.

Decision

13. The instant petition filed under Section 482 of Cr.P.C. stands dismissed. Needless to state herein that this Court has not delved into the merits of the matter and the same is left open to be considered in appropriate proceedings, if so initiated. There is no gainsaying that the petitioner, if so advised, will be at liberty to file an appropriate petition under Section 156(3) of Cr.P.C., 1973 for redressal of her grievance(s), in accordance with law.

(SUMEET GOEL)
JUDGE

March 12, 2024
Ajay

Whether speaking/reasoned:	Yes
Whether reportable:	Yes