

CRM-M-13142-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 27.05.2024

Rabia Parveen

....Petitioner

V/s

State of Punjab and others

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Arzoo Modi, Advocate for the petitioner.
Mr. Yuvraj Singh, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 482 of Cr.P.C. of 1973 with the following substantive prayer:

“It is, therefore, respectfully prayed that this petition may kindly be allowed and respondent No.3 and 4 to complete the investigation of case bearing FIR No.0017 dated 14.08.2023 under Section 498-A of IPC registered at Women Police Station Malerkotla District Malerkotla, (Annexure P-1), within some specific time, and therefore, submit the challan/final report in the competent court of jurisdiction within specific time.

It is further prayed that respondent No.2 be directed to provide protection to the petitioner and his family members as petitioner and his family members are apprehending immediate danger to their life and liberty at the hands of accused persons.

2. The brief facts of the case as narrated in the present petition are that the marriage of the petitioner was solemnized with respondent No.5 as per muslim rites and ceremonies on 03.11.2019. The parents of the petitioner spent huge money and sufficient dowry was given at the time of marriage as per their financial status and capacity. The accused persons including the petitioner (herein) allegedly started maltreating, harassing and taunting the

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petitioner (herein) for bringing insufficient dowry. On 05.10.2020, the petitioner gave birth to a female child. As the accused persons were not happy with the birth of the female child, the petitioner was thrown out of her matrimonial home. Thereafter, with the intervention of various respectable persons and panchayat, the matter was compromised and the petitioner was rehabilitated. However, the behavior of the private respondents (herein) did not change. On 25/26.07.2021, the private respondents, in connivance with each other, gave beatings to the petitioner. However, the petitioner somehow managed to escape from their clutches and got herself admitted to Civil Hospital, Malerkotla whereinafter her medical examination was conducted. On these set of allegations, a complaint was made to Women Cell, Malerkotla wherein the private respondents were called and the matter was compromised. Thereafter, the petitioner had returned to her matrimonial home. However, the behaviour of the private respondents did not change. It was alleged that on 05.05.2022, the private respondents in connivance with other family members forcibly administered poison to the petitioner. She, thereafter, raised hue and cry which attracted nearby people who took her immediately to a hospital in Bathinda. Petitioner remained admitted for 08 days in the hospital and was ultimately discharged on 13.05.2022 upon which the matter was reported to the Police. Furthermore, it was alleged that the police, instead of investigating the matter, was more interested in shielding the private respondents and had fraudulently obtained her signature on the blank paper wherein it was recorded that she herself consumed poison by mistake. Aggrieved, by the inaction of the Police, the petitioner moved a representation/complaint dated 31.03.2023 (copy whereof has been appended as Annexure P-3 with the present petition) was also made to the

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Senior Superintendent of Police, Malerkotla for taking legal action against the persons named in the above-said complaint/representation but no action has yet been taken which obligated the petitioner to file an application/representation dated 23.06.2023 (copy whereof has been appended as Annexure P-4 with the present petition) before the I.G. Patiala (respondent No.2 herein) for fair investigation. After conducting a detailed enquiry by Senior Superintendent of Police, (Headquarter), Malerkotla, husband of the petitioner namely Najdeep Khan and mother-in-law of the petitioner namely Jarnail Kaur @ Jailo were found to have committed offence punishable under Section 498-A of IPC. Accordingly, FIR No.17 dated 30.01.2024 was registered at Police Station Women, Malerkotla against the aforesaid persons. Dissatisfied with the investigation conducted by Senior Superintendent of Police, (Headquarter), Malerkotla, the petitioner moved a complaint/application to the Additional Director General of Police, Patiala Range Patiala for implication of other family members of her in-laws and for enhancement of offences in the present FIR. The same was marked to SHO, Police Station Women, Malerkotla, who after conducting a detailed enquiry, found that no further action was required to be taken on the aforesaid complaint as there was no concrete evidence on record and the same had been filed.

3. Learned counsel for the petitioner has argued that the private respondents in connivance with other persons are threatening the petitioner and her family members. Learned counsel has further argued that the police officials are openly helping the private respondents and pressurizing the petitioner to compromise the matter. Regarding that petitioner has submitted

numerous applications but no action has been done. Although, the FIR has

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been registered but till date neither any accused has been arrested nor investigation has been taken to its logical end. According to learned counsel, the accused, who happens to be influential persons, are creating hurdles in conducting of the investigation. Furthermore, despite providing overwhelming evidence to Police, no action has been taken against other family members of her in-laws, which raised suspicion about inertia of the police. Learned counsel has further argued that a direction be issued to the Police to provide protection to the petitioner and his family members as they are apprehending immediate danger to their life and liberty at the hands of accused persons.

4. It has been argued that a direction be issued to the Police to provide protection to the petitioner and his family members as they are apprehending immediate danger to their life and liberty at the hands of accused persons. Thus, the petitioner has been constrained to file the instant petition seeking the prayer(s) as indicated hereinabove. Learned counsel for the petitioner has further argued that due to non-action of the Police, petitioner met the higher officials and brought the matter in their knowledge, but no action has been taken against the accused.

5. I have heard learned counsel for the petitioner and have perused the paper-book.

6. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-11075-2024** titled as ***Talima vs. State of Haryana and others***, decided on 12.03.2024; relevant whereof reads as under:-

“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.”

7. The prime prayer made in the petition is for issuance of directions to the respondent Nos.3 and 4 to complete the investigation of the FIR *ibid* within specified time and also to submit the final report before the competent court of jurisdiction. The petitioner (herein) who claims that the private respondents has committed offence of cheating, breach of trust and caused mental and physical cruelty to her as also tried to attempt her murder, 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



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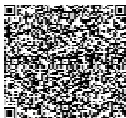
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Section 156 (3) *ibid*, empowers a Magistrate to direct for registration of FIR as also monitor the Investigation thereof. In this regard, reference may be made to judgment of the Hon'ble Supreme Court in "***Sakiri Vasu versus State of U.P and others***2008 (2) SCC 409".

7.1 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.

8. The prayer that next requires to be addressed is to provide protection to the petitioner and her family members as they are apprehending danger to their life and liberty at the hands of accused persons. It would be apposite to refer herein to the status report dated 19.04.2024 of Karamjit Singh, Deputy Superintendent of Police, (Headquarter), District Malerkotla; relevant whereof reads as under:

"12. That so far as the fact of threat to the life and liberty of the petitioner Rabia Parveen, is concerned, in this regard, it is respectfully submitted that as per the detailed facts mentioned hereinabove, the petitioner and the private respondents have matrimonial dispute and FIR has already been registered against the respondent No.5 and his mother and the same is under investigation with the SHO, Police Station Women, Malerkotla and persistent efforts are being made by SHO, Police Station Women, Malerkotla to apprehend absconding accused. Furthermore, the answering respondents are always there to assist and protect the petitioner in case of any misuse of law by the private respondents."



9. Accordingly this Court does not find the present case a fit one for exercise of its jurisdiction under Section 482 of Cr.P.C. The instant petition filed under Section 482 of Cr.P.C. stands dismissed. Needless to state herein 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.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

May 27, 2024
Ajay

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