



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-24222-2024

Date of decision: 14.05.2024

Des Raj

...Petitioner

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. GPS Ghuman, Advocate for the petitioner.

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:

“Keeping in view of above mentioned facts and circumstances it is most humbly prayed that direction to official Respondent No.2 to initiate appropriate action against the private respondents keeping in view of the facts and circumstances of the case and in view of the Representation dated 17.04.2024 (p-7)

It is further prayed to issue directions to Respondent No.2 to decide the representation dated 17.04.2024 (P-7) within stipulated period of time.

2. The brief facts of the case as narrated in the present petition are that the petitioner had solemnized the marriage of his daughter namely Ramanpreet Kaur, who is residing in New Zealand, with respondent No.3 on 11.01.2015 with great pomp and show. Thereafter, daughter of the petitioner went to New Zealand and had started the process of grant of spousal visa of respondent No.3. However, after the grant of visa, respondent No.3 had joined the company of Ramanpreet Kaur (daughter of the petitioner) in New Zealand and subsequently also got the permanent resident status of New



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behavior of respondent No.3 changed towards his daughter and he started picking quarrels on small issues with his daughter. It was alleged that during all this period the behavior of respondent No.3 was cruel towards the daughter of the petitioner. Ultimately, respondent No.3 had disclosed that he was already married and has two kids in India and left the company of the daughter of the petitioner. Thereafter, daughter of the petitioner disclosed the same to her father (petitioner herein), who had moved a representation to respondent No.2 for taking the necessary action against the accused (private respondents herein).

3. Learned counsel for the petitioner has argued that the 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/complaint dated 17.04.2024 was also made to the Additional Director General of Police (NRI Affairs), Phase 7, SAS Nagar for taking legal action against the persons named in the above-said complaint/representation but no action has yet been taken. The true translated copy of the prayer clause of the said representation/complaint reads as under:-

“Keeping in view of above, it is most humbly prayed to initiate appropriate legal action for commission of offence Bigamy, commission of cheating, breach of trust and for causing cruelty mentally and physically against 1) Sukhpal Singh S/o Ranjit Singh, 2) Ranjit Singh son of Kartar Singh and 3) Malkit Kaur W/o Ranjit Singh, Hardeep Kaur wife of Sukhpal Singh (First wife), all residents of Village Pakho Kalan, Basan Patti, Tehsil Tapa, District Barnala and for issuing directions to the concerned SHO to register an FIR under sections 494, 415, 420, 406, 498 of IPC appropriate sections of IPC with further direction to recover dowry articles including Gold Ornaments etc., in the interest of justice.”



4. It has been argued that the after the aforesaid complaint, no action has yet been taken. 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 against the private respondents, petitioner met the higher officials and brought the matter in their knowledge, but no action has been taken.

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 No.2 for initiation of appropriate action against the private respondents in view of representation dated 17.04.2024 (Annexure P-7) made to Additional Director General of Police (NRI Affairs), Phase 7, SAS Nagar. The petitioner (herein) who claims that the private respondents has committed offence of cheating, breach of trust and caused mental and physical cruelty to his daughter, 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 him in approaching the concerned Illaqa/Jurisdictional Magistrate by invoking Section 156(3) of Cr.P.C., 1973. 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**”.

8. 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.



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 his grievance(s), in accordance with law.

(SUMEET GOEL)
JUDGE

May 14, 2024
Ajay

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