

104

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25255-2024 (O&M)
Date of decision: 18.05.2024

Isha Burman

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Nancy Vashistha, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 482 Cr.P.C. for issuance of directions to respondents No.2 & 3 to conduct fair and impartial investigation in FIR No.282 dated 24.03.2024 under Sections 354, 354-C, 506 of IPC, registered at Police Station Yamuna Nagar City, District Yamuna Nagar and to add the relevant Sections under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Act').

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is working as Peon in Punjab National Bank, Yamuna Nagar, where respondent No.4 is Branch Manager and he is habitual of passing caste related remarks and he abused the petitioner in the name of her caste '*the caste of SC/ST are meant to serve us and if any of this is revealed, petitioner's job*

along with her life will suffer too'. It is further contended that a perusal of the FIR (*supra*) indicates that Sections invoking the provisions of the Act are not added. It is thus prayed to issue an appropriate direction to the official respondents to fairly investigate the FIR (*supra*) and to add the relevant Sections of the Act.

3. Having heard learned counsel for the petitioner and after perusing the record of the case with her able assistance, this Court finds no force in the arguments advanced on behalf of the petitioner.

4. A two Judge Bench of the Hon'ble Supreme Court in ***Sakiri Vasu Vs. State of U.P. and others, (2008) 2 SCC 409*** has held that the Magistrate has been bestowed with all necessary powers to ensure proper investigation under Section 156(3) Cr.P.C. Discouraging the practice of approaching the High Court for redressal of grievances like non-registration of FIR or improper investigation, Justice Markandey Katju made the following observations:

“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.”

5. This ratio was reiterated in the judgments rendered by the Hon’ble Supreme Court in ***Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhange and others, (2016) 6 SCC 277*** and ***M. Subramaniam and another Vs. S. Janaki and another, (2020) 16 SCC 728***.

6. The High Courts, while exercising its inherent powers under Section 482 Cr.P.C., can issue directions for prompt and proper investigation, however, it would be out of bounds to instruct the investigation to be completed in a certain time frame, in alignment with the opinion expressed by it. The Courts must be conscious of its influence and not exercise the same in an unwarranted fashion as it may prejudice the conclusion of the investigating agency, straying further away from achieving the overarching goal of justice.

7. Further, even though the jurisdictional Magistrate is well equipped to deal with such type of matters, learned counsel for the petitioner has not able to provide a satisfactory response regarding approaching this Court directly instead of the concerned jurisdictional Court by filing an appropriate application under Section 156(3) Cr.P.C.

5. In view of the facts and circumstances of the case, this Court is

not inclined to issue any such direction. Accordingly, present petition is dismissed being bereft of any merit.

18.05.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No