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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 30.07.2024

Amandeep Kaur

...Petitioner

V/s

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Surinder Gandhi, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 482 of the Code of Criminal Procedure Code of 1973 (hereinafter to be referred as "Section 482") with the following substantive prayer:

"It is, therefore respectfully prayed directions be issued to the respondents for registration of the FIR under Section 452, 323, 354 A, 506 of IPC and Section 3, Sub Section 1 (w) (i) of the SC & ST Act 1989 against the police personnel mentioned in the complaint dated 29.05.2019 attached as Annexure P-1 and further prayer the SIT be constituted to investigate the crime committed by the Police personnel Police Post, Toot, Police Post Ghariala, Police Station, Patti More and Police, Post, Sabhra, all in District Tarn Taran and about 20 other police personnel and the false cases lodged against the petitioner' husband and her family members and relatives be cancelled and the further directions be given to the respondents No. 1 to 3, to ensure that respondent No.4 and police personnel of District Tarn Taran, do not harass the petitioner and her family members and further directions be given to the respondents to protect the life and liberty of the petitioner and her family members from the un-necessary harassment and humiliation caused by respondents No. 4 and other police personnel of Police Post, Toot, Police Post Ghariala, Police Station, Patti More and Incharge Police Post, Sabhra, all in District Tarn Taran, further prayer the appropriate action against the guilty police persons as per law and further prayer that the petitioner and her family members be provided police protection of any



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Central Government police force and a compensation of Rs.2.00 lakhs as provided in the SC & ST Rules 1995, be awarded in favour of the petitioner or pass any other direction which the Hon'ble Court may deem fit and proper as per the facts and circumstances of the case.”

2. The brief facts of the case, as narrated in the present petition, are that the Police personnel of Ghariala Police Post, District Tarn Taran had trespassed the house of Parveen Kaur (sister of the petitioner) at night and outraged her modesty. They had beaten her up and her family members. The entire incident had been recorded in the CCTV cameras. Thereafter, an application dated 28.03.2019 (Annexure P-1) was submitted by the sister of the petitioner before the Director General of Police, Punjab for registration of an FIR against the aforesaid Police personnel. However, no action has been taken which compelled the sister of the petitioner to file a petition i.e. CRM-M-15339-2019 before this Court. This Court, vide order dated 03.04.2019, had passed the following order:

“It has been submitted that the police officials headed by ASI Lakhwinder Singh forcibly entered the house of the petitioner at 9:15 p.m. at night. They outraged the modesty of the petitioner and beaten up her and her family members. It has been further submitted that the CCTV cameras have been installed in the house of the petitioner and everything has been recorded therein but no action has been taken. It has also been submitted that now the police officials pressurizing the petitioner to arrive at a compromise.

Notice of motion for 09.05.2019.

Meanwhile, the Deputy Inspector General of Police, Tarn Taran Range will look into the matter and submit the report before this court on the date fixed.

However, in the meanwhile, neither any police official will enter the house of the petitioner except the prior permission of the area Magistrate nor the petitioner be called in the police station except the prior permission of the area Magistrate.”



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Thereafter, the aforesaid police personnel started pressuring the petitioner, her husband and the sister of the petitioner to withdraw the case else they would implicate them in a false case. As the petitioner and her husband did not buckle under the pressure exerted by the Police; on 26.05.2019 at about 07:00 P.M., the police entered the house of the petitioner, when a marriage function in the family was underway and started abusing and harassing them on the pretext that they were playing loud music. The entire incident was also recorded in the CCTV cameras installed in the house. It is further alleged that the said policemen removed the DVDs from the cameras and took away the same with them. Thereafter, a false case alleged to have been registered against the husband of the petitioner and her relatives on the ground that they were playing loud music and fired gun shots in the air.

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 29.05.2019 was also made to the Director General of Police, Punjab as well as the Senior Superintendent of Police, Tarn Taran for taking legal action against the persons named in the above-said complaint/representation but no action has yet been taken. The relevant portion of the said representation/complaint reads as under:-

“3- That the policemen of Ghariala Post police and Toot Police Post were regularly pressurizing my husband Gurchet Singh and me to further put pressure on her sister Parveen to withdraw the case from the High Court, otherwise, they will implicate him in a false case. When myself and my husband refused to do the same.



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4- That on 26.05.2019, at about 07.00 PM about more than 20 police personnel armed with pistol and sticks of the aforesaid Police Posts/Police Station forcibly entered into our house, when a marriage function was in progress, and my relatives were on dancing in the marriage function, they falsely alleged that we were playing loud music and started giving caste based abuses calling us Kuttey Chuhre, etc. etc. and slapped our family members and destroyed the entire marriage function. This entire incident committed by the police was recorded by me on my mobile phone. Kirpal Singh ASI caught me and Lakhwinder Singh, SI, forcibly snatched my mobile phone and while doing so, both of them molested me and slapped my breast. CCTV cameras are also installed at our house, the policemen removed the DVDs from the cameras, in which the aforesaid incident was got recorded and took away with them. They deleted the recording and returned the mobile phone. Even some recordings in CCTV cameras are still with us.

5- That the aforesaid police personnel to save themselves and pressurizes us got lodged a false cases against our family members and my relatives. The Police has falsely implicated my husband in FIR No.64 dated 16.04.19 PS Sadar Patti.

6- That on 26.05.2019, another one false case registered alleged that we have fired gun shots.

7- That on 26.05.2019 at about 07.00 PM about more than 20 police personnel armed with pistol and sticks of the aforesaid Police Posts/Police Station, forcibly entered into our house, when a marriage function was in progress and caste based abuses us, my family members and my relatives. Kirpal Singh ASI, Police Post, Toot, and Lakhwinder Singh, SI, Police Post Ghariala molested me and squeezed the breasts of the applicant

It is, respectfully prayed that FIR may kindly be got registered against the aforesaid police personnel and false FIRs registered against my husband and my relatives may kindly be cancelled please."

4. It has been argued that 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 alleged police personnel, petitioner met the higher



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officials and brought the matter to their knowledge, but no action has been taken.

5. Learned State counsel submits that the petitioner has tried to mislead the Court by twisting the facts. He submits that in fact after proper investigation and taking into account all the relevant materials on record including the representation moved by the petitioner found that the allegations levelled by the petitioner were found to be false and frivolous. He further submits that the husband of the petitioner is a habitual offender as he is involved in 08 other FIRs. Furthermore, no such representation dated 29.05.2019 (Annexure P-1) as alleged by the petitioner, was ever received by the Police. According to him, no lapse on the part of police, as alleged by the petitioner, was found.

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

7. 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



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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.”

8. Reverting to the facts of the present case, the prime prayer made by the petitioner is for issuance of directions to the respondent No.2 for initiation of appropriate action against the erring police personnel as also to protect the life and liberty of the petitioner and her family members from unnecessary harassment and humiliation caused by respondent No.4 and other police personnel does not inspire any confidence as the petitioner has failed to show any convincing and concrete evidence with regard to impartial investigation being carried out by the Police. Furthermore, the apprehension raised by the petitioner; that the investigating agency has acted hand in glove with the private respondent and other police personnel; has already been redressed as the Police after conducting due verification came to the conclusion that the allegations levelled by the petitioner were found to be false and frivolous. The petitioner, who claims herself and her family members to be victims of physical 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



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approaching the concerned Illaqa/Jurisdictional Magistrate in terms of Section 156(3) of Cr.P.C. 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

9. 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.
10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 30, 2024
Ajay

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