

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-40079-2024
Date of decision: 20.08.2024

....Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bhavdeep Singh Mamli, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking issuance of directions to the official respondents to take action against the accused persons in FIR No.156 dated 20.04.2024 under Sections 323/354-A/452/506 of IPC registered at Police Station Gandhi Nagar, Yamuna Nagar (Annexure P-1) or to handover the investigation to some other higher officer.

Learned counsel for the petitioner *inter alia* contends that specific allegations have been levelled by the petitioner and when her son came to her rescue, he was brutally beaten up and he suffered eight injuries which was duly recorded in the medico legal report and the victim was alone at the home and the police authorities were approached time and again but the police has not done anything.

Per contra, the learned State counsel submits that on the basis of the complaint made by the petitioner, FIR (*supra*) was duly registered and the jurisdictional police authorities have investigation in a free and fair manner and



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the final report has already been prepared which is likely to be submitted before the jurisdictional Magistrate expeditiously and the present petition is totally mischievous and misplaced. Nothing has been pleaded in the petition for issuance of any direction and moreover, it is a trite law that the grievance raised in the present petition can be looked into by the jurisdictional Magistrate and the petitioner has directly approached this Court without exhausting his remedies in view of the judgment of the Hon'ble Supreme Court in ***Sakiri Vasu Vs. State of U.P. and others, (2008) 2 SCC 409*** and the present petition is liable to be dismissed.

Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds no force in the arguments advanced on behalf of the petitioner. Moreover, nothing has been pleaded or indicated in the entire petition to attribute any bias on the jurisdictional police authorities and without even approaching the jurisdictional Magistrate, the petitioner has directly approached this Court.

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.”

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, M. Subramaniam and another Vs. S. Janaki and another, (2020) 16 SCC 728, Dilawar Singh vs. State of Delhi 2007(4) R.C.R(Criminal) 115.***

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.

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.

Accordingly, present petition is dismissed being bereft of any merit.

(HARPREET SINGH BRAR)

JUDGE

20.08.2024

Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No