

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

CRM-M-33554-2024
Date of decision: 16.07.2024

....Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Roshan Saini, Advocate for
Mr. Tushar Gautam, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Harvana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking issuance of directions to respondents No.1 to 4 to take legal action against respondent No.5 by arresting him in case bearing FIR No.132 dated 29.04.2024 (Annexure P-1) under Sections 354-A/376(2)(n)/450/506 of IPC and Sections 6 & 8 of POCSO Act, 2012 registered at Police Station Hathin, District Palwal.

Learned counsel for the petitioner *inter alia* contends that daughter of the petitioner was sexually exploited by respondent No.5 and in spite of the registration of FIR (*supra*) on 29.04.2024, the jurisdictional police authorities have failed to perform their statutory duty. In spite of the serious allegations, no action has been taken by the police. Respondent No.5 is roaming freely and he has not been apprehended in spite of passing of more than two months thus, it proves the collusion of the local police with respondent No.5 and the jurisdictional police authorities are pressurizing the petitioner to compromise



CRM-M-33554-2024

-2-

the matter. He further submits that in this regard, the petitioner has made representation dated 10.06.2024 to the Superintendent of Police, Palwal (Annexure P-2) and he has also approached the National Women Commission for redressal of his grievance.

Per contra, the learned State counsle submits that the investigation of the FIR (*supra*) is still pending and the jurisdictional police authorities are making all efforts to arrest respondent No.5 and conclude the investigation expeditiously.

Having heard learned counsel for the parties and after perusal of the record, the petitioner has approached this Court by invoking provisions of Section 482 Cr.P.C. for fair investigation.

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.



CRM-M-33554-2024

-3-

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.*”

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. Reliance in this regard can be placed on the judgment passed by this Court in ‘Hansa Singh Vs. State of Punjab’ CRM-M No. 18831 of 2022 (O&M) decided on 12.05.2022.

In view of the above, the present petition is disposed of. However, in case the petitioner approaches the learned jurisdictional Magistrate for the redressal of the grievance raised in the present petition, the learned jurisdictional Magistrate shall pass an appropriate order in view of the ratio of law as laid down by the Hon’ble Supreme Court in *Sakiri Vasu (supra)* and *Hansa Singh (supra)*.

Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

16.07.2024

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