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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34293-2024 (O&M)
Date of decision: 22.07.2024

Reetu Rani

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Maini, 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 decide the representation (Annexure P-3) moved before them for taking appropriate legal action against respondents No. 4 to 6.
2. Learned counsel for the petitioner, *inter alia*, contends that her marriage with respondent No. 4 was solemnized on 01.11.2019. Two children were born out of the wedlock. However, soon after the wedding, respondents No.4 to 6 started taunting the petitioner and kept demanding more dowry from her. The petitioner was also subjected to physical assault. On the basis of the complaint filed by the petitioner, an FIR No.49 dated 15.06.2021 under



Sections 498-A, 323, 148, 149 of IPC was registered at Police Station Abohar against the private respondents. Thereafter, with the intervention of a *panchayat*, the dispute stood compromised and the said FIR was quashed on the basis of that compromise. As soon as the FIR was quashed, respondents No.4 to 6 resorted to their old ways and started harassing the petitioner. After several incidents of violence, the petitioner got her statement recorded before the police. However, the police refused to register the FIR and only recorded an entry in the General Diary. The petitioner being aggrieved by police inaction, moved a representation before respondents No.2 & 3, yet no legal action has been taken against the private respondents. Subsequently, the petitioner filed an application under Section 156(3) Cr.P.C. before the jurisdictional Magistrate for taking appropriate legal action against respondents No.4 to 6 but the same has been treated as a criminal complaint and the case is now fixed for 24.09.2024 for recording the evidence of the petitioner-complainant.

3. Having heard learned counsel for the petitioner and after perusing the record of the case with his 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 and other allied issues, 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, 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.

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

7. In the present case, the petitioner has already filed an application under Section 156(3) Cr.P.C. before the concerned jurisdictional Court. The Magistrate, after considering the status report presented by the police as well as the documents placed on record, decided to treat the application as a criminal complaint and fixed the date for recording the complainant evidence. It is settled law that the exercise of power by the Magistrate under Section 156(3) Cr.P.C. requires application of judicial mind and the Magistrate ought not to direct registration of FIR on mere asking of the complainant. Therefore, the contention of learned counsel for the petitioner that there has been no satisfactory redressal of the grievances of the petitioner cannot be appreciated.



8. At this juncture, it would be profitable to cite the judgment of two Judge Bench of the Hon'ble Supreme Court in ***Priyanka Srivastava and another vs. State of U.P. and others 2015 AIR SC 1758***, wherein speaking through Justice Dipak Misra, the following observations were made:

“24. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order....

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26. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same.”

9. Reliance in this regard can also be place upon the judgments rendered by the Hon'ble Supreme Court in ***Ramdev Foods Products Pvt. Ltd. Vs. State of Gujarat, (2015) 6 SCC 439*** and ***Anil Kumar Vs. M.K. Aiyappa, (2013) 10 SCC 705***.

10. Further reliance can be placed upon the judgment of Co-ordinate Bench of the Delhi High Court in ***Subhkaran Luharuka Vs. State, 2010 SCC OnLine Del 2324***, wherein speaking through Justice Mool Chand Garg, the following was observed:



“42. Thus, there are pre-requisites to be followed by the complainant before approaching the Magistrate under Section 156(3) of the Code which is a discretionary remedy as the provision proceeds with the word ‘May’. The magistrate is required to exercise his mind while doing so. He should pass orders only if he is satisfied that the information reveals commission of cognizable offences and also about necessity of police investigation for digging out of evidence neither in possession of the complainant nor can be procured without the assistance of the police. It is thus not necessary that in every case where a complaint has been filed under Section 200 of the Code the Magistrate should direct the Police to investigate the crime merely because an application has also been filed under Section 156(3) if the Code even though the evidence to be led by the complainant is in his possession or can be produced by summoning witnesses, may be with the assistance of the court or otherwise. The issue of jurisdiction also becomes important at that stage and cannot be ignored.”

11. 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.

12. All the pending miscellaneous application(s), if any, shall also stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

22.07.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No