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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7446-2023 (O&M)
Date of decision: 30.09.2024

Kriti Malhotra and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Kumar Sirswa, Advocate for
Mr. Krishan M. Vohra, Advocate
for the petitioners.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Present criminal writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus directing respondents No.1 to 3 to provide adequate security and protection to lives and liberty of the petitioners from the hands of respondent No.4 and further to constitute a Special Investigation Team headed by senior police officer to conduct fair investigation in FIR No.152 dated 27.03.2023 under Sections 354, 354-C, 452, 506 of the Indian Penal Code, 1860, registered at Police Station Pinjore, District Panchkula.
2. Learned counsel for the petitioners, *inter alia*, contends that the



petitioners lodged the FIR (*supra*) against respondent No.4 and in connivance with official respondents No.1 to 3, he is harassing them and respondent No.3 is protecting him. At the behest of respondent No.4, respondent No.3 is pressurizing the petitioners to withdraw the FIR (*supra*) or they will involve the petitioners in some false case. Respondent No.3 is not conducting fair investigation in the FIR (*supra*) and is favouring respondent No.4. The petitioners are apprehending threat to their lives and liberty.

3. *Per contra*, learned State counsel, on instructions from SI Sunita, submits that it is a monetary dispute between the parties and veracity of the allegations were thoroughly examined and cancellation report was prepared, in which CCTV footage was relied upon. The said cancellation report was submitted before the jurisdictional Magistrate on 13.05.2024. The petitioners can avail the remedy of contesting the cancellation report by filing a protest petition. Further, there is no apprehension to the lives and liberty of the petitioners and their apprehension was found to be invalid. As such, nothing survives in the present petition.

4. 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 petitioners.

5. 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.”

6. 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***.

7. 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.

8. Further, even though the jurisdictional Magistrate is well equipped to deal with such type of matters, learned counsel for the petitioners 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.

9. In view of the facts and circumstances of the case, this Court is not inclined to issue any such direction. Accordingly, present criminal writ petition is dismissed being bereft of any merit.

10. However, liberty is granted to the petitioners to invoke the alternative remedy, as available to them, in accordance with law.

[HARPREET SINGH BRAR]
JUDGE

30.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No