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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36113-2024 (O&M)
Date of decision: 30.07.2024

Avanish Kant Agnihotri

... Petitioner

Vs.

State of Haryana and others

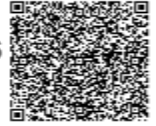
... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amish Sharma, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 for issuance of directions to the official
respondents to conduct fair and proper investigation in FIR No.34 dated
09.04.2024 under Sections 376(2)(ii) of IPC, registered at Women Police
Station Gurgaon, Sector 51, District Gurgaon, as per representation dated
12.07.2024 (Annexure P-1), by some senior police officer not below the rank
of IPS Officer.
2. Learned counsel for the petitioner, *inter alia*, contends that present
case has been initiated by estranged wife of the petitioner in connivance with

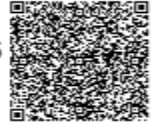


the victim-prosecutrix. The investigating officer is harassing the petitioner by issuing notice under Section 91 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') asking him to hand over his laptop. All the allegations made by the complainant-prosecutrix have no semblance of truth and there is no evidence at all to indicate complicity of the petitioner. The petitioner has done MCA and is working in a reputed MNC with a decent experience of two decades. The petitioner has been trapped in the controversy at the behest of his estranged wife. Moreover, the petitioner has already disclosed about his matrimonial status to the complainant-prosecutrix on various occasions and he even sent his divorce case to the complainant-prosecutrix through Whatsapp, copy of screenshot of Whatsapp chats is attached as Annexure P-9. The relationship between the petitioner and the prosecutrix was consensual in nature.

3. Notice of motion.

4. On asking of the Court, Ms. Geeta Sharma, DAG, Haryana accepts notice on behalf of the respondents-State and submits that present petition is totally misconceived. Not even a whisper is made in the entire petition with regard to investigating agency being biased towards the petitioner. Investigation of the case is still under way and in case, the petitioner has any grievance, he can approach the jurisdiction Magistrate concerned.

5. Having heard learned counsel for the parties and after perusing the



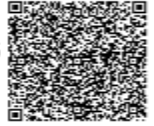
record of the case with their able assistance, this Court finds no force in the arguments advanced on behalf of the petitioner.

6. 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.”

7. 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.

8. 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.

9. 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.

10. 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.

30.07.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No