2024:PHHC:111327

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-8272-2024 (O&M)
Date of decision: 29.08.2024

Preeti Sharma

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Naveen Upadhyay, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

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HARPREET SINGH BRAR, J. (ORAL)

1. Present criminal writ petition petition has been filed under Article 226 of the Constitution of India seeking issuance of directions to respondents No.1 to 3 to protect the life and liberty of the petitioner from the hands of respondents No.4 to 6 and to transfer the investigation of FIR No.111 dated 23.07.2024 under Section 376 of the Indian Penal Code, 1860 (for short 'IPC') and Section 67 of Information Technology Act, 2000 (for short 'I.T. Act'), registered at Police Station Haibowal, Ludhiana to some independent agency.

2. Learned counsel for the petitioner, *inter alia*, contends that FIR (*supra*) was registered on 23.07.2024 and thereafter, the petitioner along with her husband accompanied the police personnel and respondent No.4 was

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arrested, but to the utter shock and dismay, the jurisdictional police authorities have allowed him to leave the police station. Now a false and vague audio recording has been prepared by the henchman of respondent No.4, in which the petitioner has been shown demanding money from respondent No.4 to withdraw her complaint made against respondent No.4. It is further contended that respondent No.3 is hand in gloves with private respondents and is providing full protection to them and he did not arrest the private respondents despite the specific allegations levelled against them in the complaint made by the petitioner.

3. *Per contra*, learned State counsel appears on advance notice and on instructions from SI Meet Ram Singh, submits that present petition is totally misconceived, which has been filed just to put pressure on the jurisdictional police authorities not to investigate the matter fairly; rather keeping in view the allegations and counter-allegations by the petitioner and private respondents, a Special Investigation Team headed by Assistant Commissioner of Police, Ludhiana was constituted and the petitioner and her husband were asked to appear, however, they are not cooperating. Initially, the petitioner did not appear and later on, she appeared before the Special Investigation Team, which is investigating the matter in a free and fair manner and there is nothing on record to remotely suggest that the investigation of the case is being influenced.

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

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

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***

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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 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.

9. 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.

[HARPREET SINGH BRAR]
JUDGE

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

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