2024:PHHC:113116

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-42668-2024 (O&M)
Date of decision: 31.08.2024

Kamaljit Kaur **...Petitioner**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rishu Mahajan, Advocate
for the petitioner.

MANISHA BATRA, J. *(Oral)*

1. The present petition has been filed under Section 528 of BNSS, 2023 seeking issuance of direction to respondent No. 2 to conduct a fair and impartial investigation in FIR No. 55 dated 04.08.2024, registered under Sections 333, 109, 118(1), 115(2), 324(4), 309/61(2), 351(2), 191(3) and 190 of BNS, 2023 and Section 25 of the Arms Act at Police Station Lohian, Jalandhar and to protect the life and liberty of the petitioner and her family members at the hands of respondent No. 5.

2. Notice of motion.

3. Ms. Ruchika Sabherwal, Sr. DAG, Punjab, who is present in Court, accepts notice of the petition and on instructions from the Investigating Officer, who is also present in Court, it is submitted that the aforesaid FIR has been registered at the instance of complainant Kashmir Kaur and the son of

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the petitioner, namely Baljinder Singh @ Jashan has been arraigned as an accused. The matter is under investigation. Learned State counsel, on instructions from the Investigating Officer, further submits that the petitioner has filed this petition on false and frivolous grounds as there is no threat perception either to her or any other family member of the petitioner. Hence, it is urged that the petition is liable to be dismissed.

4. Learned counsel for the petitioner has failed to produce any material on record to show that the petitioner or any other member of her family has any threat perception at the hands of respondent No. 5. Even a perusal of the representation dated 17.08.2024, which has been filed by the petitioner before the Senior Superintendent of Police, Jalandhar (Rural), reveals that she has only made prayer for conducting a fair and impartial investigation in the matter and no complaint has been made against respondent No. 5 with regard to extending any threat to her. Hence, this Court has no reason to disbelieve the submissions of learned State counsel that there is no threat perception to the petitioner. So far as the prayer of the petitioner for conducting a fair and impartial investigation in the aforesaid FIR is concerned, the remedy for a person having grievance that his FIR has not been registered by the police or the same having been registered, proper investigation is not being done, is not to approach the High Court but to go to the Magistrate concerned under Section 156 (3) of Cr.P.C. Reference in this regard can be made to ***Sakiri Vasu v. State of U.P., (2008) 2 SCC 409***. Reliance can further be placed upon ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and others, (2016) 6 SCC 277***, wherein it was observed by

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Hon'ble Supreme Court that if proper investigation is not being done by the police then the remedy for the aggrieved person is not to go to High Court but to approach the Magistrate concerned under Section 156 (3) of Cr.P.C. as it is the Magistrate who can give direction for registration of FIR and even to conduct proper investigation to be done.

5. In view of the discussion as made above, the present petition is devoid of any merit and the same is hereby dismissed, without having any prejudice to the right of respondent No. 5 or making any comment on the merits of the case.

31.08.2024 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

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