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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45138-2024 (O&M)
Date of decision: 11.09.2024

Shikha

... Petitioner

Vs.

State of Punjab and others

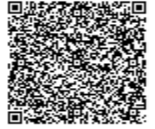
... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep S. Majithia, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

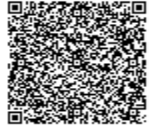
1. Present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for issuance of directions to respondents No.1 to 3 to initiate appropriate legal action against private respondents No.4 to 7 for the offences under Sections 316, 85, 90, 351 of Bharatiya Nyaya Sanhita, 2023 and any other appropriate provisions under which the offence is found to have been made out against them.
2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is suffering at the hands of private respondents and the jurisdictional police authorities are playing second fiddle to them and instead of performing



their statutory duty and taking action against them, they are pressurizing the petitioner and her family members to effect a compromise. Learned counsel relies upon Medical Legal Report dated 10.07.2024 (Annexure P-3) and submits that medical opinion clearly indicates that a cognizable offence has been made out. He further relies upon the audio and video recording of the police officials admonishing uncle of the petitioner and as such, act and conduct of the jurisdictional police authorities clearly shows their bias towards the petitioner. The petitioner and her family members are running pillar to post, however, she has not been provided justice till date and she is having two daughters and is having pregnancy of around four and half months and she is suffering from mental and physical trauma and inaction of the jurisdictional police authorities has left her with no other option, but to approach this Court by way of filing the present petition.

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) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'). Discouraging the practice of approaching the High Court for



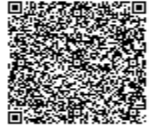
redressal of grievances like non-registration of FIR or improper investigation, Justice Markandey Katju made the following observations:

“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.”

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*** and ***M. Subramaniam and another Vs. S. Janaki and another, (2020) 16 SCC 728***.

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.

7. 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.

8. 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.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case, lest it may prejudice the right of either of the parties.

[HARPREET SINGH BRAR]
JUDGE

11.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No