

114

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45752-2024 (O&M)
Date of decision: 14.10.2024

Harpreet Singh @ Happy

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amritpal Singh Sohal, Advocate
for the petitioner.

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

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for issuance of directions
to respondents No.2 & 4 to take legal action on the application dated
14.03.2024 (Diary No.277-PDP/16.03.2024) (Annexure P-1) submitted by the
petitioner against the private respondents.
2. Learned counsel for the petitioner, *inter alia*, contends that
marriage of the petitioner was solemnized with respondent No.5 on 28.02.2020
according to Sikh rites and rituals and out of this wedlock, no child was born.



After few months of the marriage, when respondent No.5 and her parents pressurized the petitioner to live separately from his parents, the dispute ensued between the petitioner and respondent No.5. After two years of the marriage, respondent No.5 filed a complaint against the petitioner and his family members with the allegations of demand of dowry and beatings to her, however, with the intervention of the relatives, the matter was resolved between the parties. Few months thereafter, the petitioner came to know about extramarital affair of respondent No.5 with a boy namely Jagjit Singh and on being restricted by him, respondent No.5 and her family members threatened to implicate him in a false case. Thereafter, respondent No.5 in connivance with her family members got registered an FIR No.18 dated 20.05.2022 under Sections 498-A & 406 of the Indian Penal Code, 1860, at Police Station Women Cell, Amritsar, in which family members of the petitioner have already been granted the concession of anticipatory/regular bail. It is further contended that all the gold articles, which were given to the family of the petitioner at the time of marriage, have been returned to respondent No.5.

3. Learned counsel for the petitioner further contends that respondent No.5 filed a complaint under the provisions of Protection of Women from Domestic Violence Act, 2005, in which, learned Judicial Magistrate 1st Class, Amritsar, vide ex-parte order dated 02.08.2024, granted maintenance of Rs.5,000/- per month in her favour along with Rs.2,000/- per month as house rent. The petitioner challenged the said order before learned District and

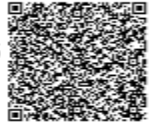


Sessions Judge, Amritsar, which is pending adjudication. Respondent No.5 played fraud with the passport authorities, as at the time of applying for the passport, she mentioned herself as unmarried and on 12.01.2024, she received the passport bearing No.B-9290028. It is also contended that the petitioner submitted the application (Annexure P-1) before the Commissioner of Police, Amritsar-respondent No.2 on 14.03.2024, but even after passing of more than 07 months, no decision has been taken thereon.

4. *Per contra*, learned State counsel, on instructions from ASI Avtar Singh, submits that application (Annexure P-1) has been submitted by the petitioner as a counter-blast to the FIR (*supra*) registered against him by his wife. The investigating agency has already concluded the investigation and presented the final report under Section 193 of BNSS against the petitioner.

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 by learned counsel for 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:

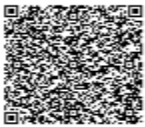


“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court 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.

14.10.2024
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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No