

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024:PHHC:148317-DB



CRM-M No. 56546 of 2024 (O&M)

Date of Decision: 13.11.2024

Asha Gupta and another

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE

Present : Mr. Lupil Gupta, Advocate,
Mr. Nitin Goswami, Advocate,
Ms. Bhumika, Advocate and
Mr. Simranjeet Singh, Advocate for the petitioners.

Mr. Gagneshwar Walia, Addl. Advocate General, Punjab with
Mr. Charanpreet Singh, Deputy Advocate General, Punjab.

SHEEL NAGU, CHIEF JUSTICE (Oral)

The grievance of the petitioners, who happen to be the complainants/victims, is essentially of non-registration of offences by the concerned police authorities against respondent No. 5 despite the said authorities having been informed of commission of cognizable offences.

2. Learned counsel for the petitioners submits that the petitioners want action to be taken against the private respondent with regard to the commission of alleged offences in accordance with law.

3. The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 provides for ample remedy to the complainant arising out of the cause of non-registration of case as well as non-conduction of investigation in a free, fair and expeditious manner. The provision of Section 156(3) of the Code of Criminal Procedure (Section 175 of BNSS) and Section 200 of Code of Criminal Procedure (Section 223 of BNSS) can very well be invoked by the complainants/victims by filing an application before the Magistrate of the area concerned.

4. The petitioners do not appear to have availed either of the aforesaid remedies. Even the law on this point is clear in terms of judgment rendered by Constitution Bench of Apex Court in *Lalita Kumari vs. State of U.P. (2014) 2 SCC 1*, wherein it has been categorically held that once the information/complaint reveals commission of cognizable offence, registration of an FIR is mandatory. However, the Constitution Bench of the Apex Court has made certain exceptions to the extent that police can conduct enquiry before registration of FIR but only to ascertain whether cognizable offence has been committed or not especially in complicated offences and special offences etc.
5. In view of the above, this Court declines interference and relegates the complainants/victims to avail the aforesaid remedies before the Magistrate of the area concerned.
6. As regards the prayer for protection of life, liberty and dignity of the complainants-victims is concerned, the said complainants/victims are free to make an application to the Senior Superintendent of Police, Faridkot for the said purpose, which if made shall be considered on its own merits within a period of 15 days from the date of receipt of the same.
7. With these observations, the petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

13.11.2024

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No/