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

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CRWP-12205-2023 (O&M)  
Date of decision: 30.07.2024

Virpal Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jagraj Singh Khiva, Advocate  
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

Mr. Vivek Dahiya, Advocate  
for respondent Nos. 3 and 4.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Article 226 of the Constitution of India read with Section 482 of Cr.P.C. for issuing direction to respondent No. 2 to initiate criminal proceedings against respondent Nos. 3 to 21 after conducting inquiry on the application moved by her.
2. Learned counsel for the petitioner submits that respondent Nos. 3 to 21, who are police officials of Uttar Pradesh Police, had illegally detained the husband of the petitioner on 11.09.2023 from Patiala and had taken him to Noida without informing any of the family members. It is further submitted that subsequently, the husband of the petitiouer has been falsely involved in FIR No. 401 dated 15.09.2023 registered at Police Station Sector 20, Noida. The petitioner has given an application to respondent No. 2-Director General of Police, Punjab on 01.11.2023

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(Annexure P-4) raising her grievances but no action has been taken thereon. It is, thus, argued that necessary direction be issued to respondent No. 2 to take appropriate legal action against respondent Nos. 3 to 21.

3. Upon notice, status report has been filed by the respondent-State, wherein it is stated that the application dated 01.11.2023 (Annexure P-4) is under inquiry. It is also stated that the Noida police has not approached the local police prior to or after the arrest of the husband of the petitioner.

4. Learned counsel for respondent Nos. 3 and 4 has filed reply, wherein it is stated that the claim of the petitioner that her husband was arrested from Patiala is patently false as her husband was arrested from Noida by following the due process as he was required in the aforesaid FIR. The petitioner has not approached this Court with clean hands and has suppressed material facts. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also perused the record thoroughly.

6. On due consideration of the contentions as raised by learned counsel for the parties, in the considered opinion of this Court, first and foremost question that arises for consideration is as to whether, any direction can be issued to respondent No. 2-Director General of Police, Punjab for initiating criminal action against respondent Nos. 3 to 21 on the representation/application moved by the petitioner. The grievance of the petitioner is that her husband was illegally detained by the Noida police from patiala and was kept in lock up of the Police Station Sector 20, Noida. Admittedly, the husband of the petitioner has been arrayed as an accused in

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the aforesaid FIR by the Noida police. Hence, his arrest cannot be stated to be illegal at this stage. So far as the question of the procedure adopted by the Noida police while arresting the husband of the petitioneer is concerned, the same cannot be taken into consideration in the present petition, which has been filed under Article 226 of the Constitution of India read with Section 482 of Cr.P.C. If the petitioner wants some legal action to be taken against respondent Nos. 3 to 21, she can avail her alternative remedy in accordance with law by filing a complaint under Section 156(3) of Cr.P.C. against the aforesaid respondents before the competent Court of jurisdiction. Reliance in this regard can be placed upon ***Sakiri Vasu v. State of U.P., (2008) 2 SCC 409***, wherein it was observed that if a person is having grievance that FIR has not been registered or legal action is not being taken by the police, then the remedy of aggrieved person is not to go to the High Court under Article 226 of the Constitution of India but to approach the Magistrate concerned under Section 156 (3) of Cr.P.C. If such application under Section 156(3) Cr.P.C. is made and the Magistrate is, *prima facie*, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done. Similar observations were made by Hon'ble Supreme Court in ***M. Subramaniam and another vs. S. Janki and another, 2020 (2) RCR (Criminal) 788*** and by the Allahabad High Court in a recent judgment dated 23.08.2023 pronounced in ***Criminal Misc. Petition No. 13346 of 2023*** titled as ***Mohini vs. State of U.P.*** and also by Delhi High Court in ***Dilawar Singh vs. State of Delhi, 2007 (4) RCR (Criminal) 115***.

7. In view of the above discussed settled proposition of law, it is held that the prayer made by the petitioner for giving direction to respondent

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No. 2 for taking legal action against respondent Nos. 3 to 21 cannot be accepted, being not maintainable. Accordingly, without going into the merit of the allegations, as levelled by the petitioner, the present petition is disposed of with a liberty to petitioner to avail her alternative remedy in accordance with law, if so advised.

30.07.2024

*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*