

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

2024:PHHC:159638



CRM-M-59378-2024 (O&M)
Date of decision:- 29.11.2024

Gurmail Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present:- Mr. Arshdeep Singh Brar, Advocate, for the petitioner(s).

Mr. Gagneshwar Walia, Additional Advocate General, Punjab.

* * * *

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The grievance of the petitioner, who happens to be the complainant/victim, is essentially of issuance of direction to respondents No.2 and 3 to transfer the investigation of DDR No. 23 dated 25.02.2024 registered at Police Station Nihal Singh Wala, District Moga and also to conduct free and fair investigation on the said DDR.
2. Learned counsel for the petitioner submits that the petitioner wants action to be taken against the private respondents with regard to the commission of alleged offence(s) 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 ⁻²⁻ BNSS) and Section 200 of the Code of Criminal Procedure (Section 223 of BNSS) can very well be invoked by the complainant/victim by filing an application before the Magistrate of the area concerned.

4. The petitioner does 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 complainant/victim to avail the aforesaid remedies before the Magistrate of the area concerned.

6. With these observations, the petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

29.11.2024

ravinder

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