



120

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-64704-2024

Date of decision: 30.01.2025

Kashmeer Kaur

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Rahish Pahwa, Advocate
for the petitioner.

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

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 praying for handing over the investigation arising out of FIR No.55 dated 04.08.2024 under Sections 333/109/118(1)/115(2)/324(4)/309/61(2)/351(2)/191(3)/190 of BNS, 2023 and Sections 25/54/59 of Arms Act (Section 103 of BNS added later on) registered at Police Station Lohian District Jalandhar (Annexure P-5) to some senior police authority not below the rank of Commissioner of Police preferably from some other District excepting Jalandhar Punjab to ensure fair and impartial inquiry and to nab the culprits.

2. Learned counsel for the petitioner *inter alia* contends that on 13.06.2024 at about 08:00 P.M., when the petitioner and her family was present at her house, they were attacked by a group of about 100 young boys headed by Sukhjiwan Singh @ Gaggu and Amandeep Singh @ Amana, who barged into the house with their respective weapons. She further submits that they brutally



CRM-M-64704-2024

-2-

caused beatings to Balwinder Singh i.e. husband of the petitioner who was sitting in *verandah* and gave *kirpan* blow on his head. They pulled out the petitioner out of kitchen and snatched her earrings and torn her shirt. Thereafter, they broke their houses, household articles and have stolen gold ornaments and documents from cupboard and also took away their tractor. When the villagers started gathering, they ran away from the spot. It is thus prayed to issue an appropriate direction to the official respondents to fairly investigate the FIR (*supra*).

3. On 20.12.2024, the following order was passed:-

'Without issuing formal notice to the State, the State is directed to file the status report with regard to the progress of investigation in case FIR No. 55 dated 4.8.2024, under Sections 333, 109, 118(1), 115(2), 324(4), 309, 61(2), 351(2), 191(3), 190 of BNNS, 2023 and under Sections 25, 54, 59 of the Arms Act, later on added Section 103 of BNSS, 2023 on or before the next date of hearing.

Adjourned to 30.1.2025.'

4. In compliance thereafter, the learned State counsel has supplied the status report dated 16.01.2025 in the Court today and the same is taken on record. He further refers to the status report and submits that the grievance raised by the petitioner in the present petition has been substantially redressed. The Investigating Agency has concluded the investigation against 16 persons and final report has been filed against those persons. The jurisdictional police authorities are making earnest efforts to arrest the remaining accused persons and their warrants of arrest have already been obtained and the investigation against the remaining accused would be concluded expeditiously. He further submits that the petitioner has approached this Court without exhausting the remedy as available to her under Section 156(3) of Cr.P.C.



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 on behalf of 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.”



CRM-M-64704-2024

-4-

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, M. Subramaniam and another Vs. S. Janaki and another, (2020) 16 SCC 728, Dilawar Singh vs. State of Delhi 2007(4) R.C.R(Criminal) 115.*

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.

8. 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.

(HARPREET SINGH BRAR)
JUDGE

30.01.2025

Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No