
(2011) 01 P&H CK 0250

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-37769 of 2010

Gurbhej Singh Sandhu

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 17-01-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 156, 190, 200, 36

Citation : (2011) 01 P&H CK 0250

Hon'ble Judges : Nirmaljit Kaur, J

Bench : Single Bench

Judgement

Nirmaljit Kaur, J.—This is a petition u/s 482 of Code of Criminal Procedure for issuance of direction to Respondents No. 1 to 4 to register an FIR and take action against Respondents No. 5 to 8 on the basis of complaint made by the Petitioner on 29.03.2010 for fraud, cheating, criminal breach of trust and misappropriation of the property of the Petitioner.

2. The Petitioner is the son of Respondent No. 5-Tarsem Singh. It is not disputed that the Petitioner had given Power of Attorney in the name of his father. It is also not disputed that on the date, the transaction took place, the power of attorney was still in the name of his father.

3. Section 156(3) of the Code of Criminal Procedure, reads as under:

156(3) Any Magistrate empowered u/s 190 may order such an investigation as above mentioned.

4. The above provision shows that the Magistrate has the power to inquire into or try under the provisions of Chapter XII. u/s 156(3), the Magistrate is also empowered u/s to order investigation and direct the registration of the FIR.

5. Hon'ble the Supreme Court in the case of Sakiri Vasu Vs. State of U.P. and Others, , held in para 27 as under:

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 u/s 482 Code of Criminal Procedure 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 police officers concerned, and if that is of no avail, u/s 156(3) Code of Criminal Procedure before the Magistrate or by filing a criminal complaint u/s 200 Code of Criminal Procedure and not by filing a writ petition or a petition u/s 482 Code of Criminal Procedure.

6. In view of the above and taking into account the facts of the present case, the present petition is disposed of with liberty to the Petitioner to avail of alternative remedy in accordance with law.