
(2012) 03 P&H CK 0120

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-8611 of 2012 (O and M)

Harjit Singh

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 26-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154(3), 156(3), 200, 36, 482

Citation : (2012) 03 P&H CK 0120

Hon'ble Judges : Rakesh Kumar Garg, J

Bench : Single Bench

Advocate : Karan Bhardwaj, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Kumar Garg, J.—This petition has been filed with a prayer for directing respondent Nos.1 to 3 to take appropriate legal action against respondent Nos. 4 and 5 who have taken away the vehicle of petitioner bearing Registration No.PB10-CX-9437 by recovering the same while it was running on road on a commercial assignment and to recover vehicle which is now in illegal custody of respondent Nos. 4 and 5 and restore the possession of the same to the petitioner. Admittedly, petitioner has taken loan for the purchase of the aforesaid vehicle and the same is hypothecated with respondent Nos.4 and 5. It is not in dispute that as per loan agreement respondents can repossess the vehicle in question in case of default in payment.

2. Admittedly, petitioner is a defaulter in payment of loan to respondent Nos.4 and 5. There is nothing on record to show that respondent Nos. 4 and 5 have used the force against the petitioner while repossessing the vehicle in question.

3. The Hon'ble Supreme Court of India in the case of Sakiri Vasu Vs. State of U.P. and Others, observed as under:

15 Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate

finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.

26 If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police u/s 154(3) Cr.P.C or other police referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the other officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate u/s 156(3) Cr.P.C instead of rushing to the High Court by way of a writ petition or a petition u/s 482 Cr.P.C. Moreover, he has a further remedy of filing a criminal complaint u/s 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?

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 CrPC 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) CrPC before the Magistrate or by filing a criminal complaint u/s 200 CrPC and not by filing a writ petition or a petition u/s 482 CrPC.

4. In view of the aforesaid observations of the Hon''ble Supreme Court, this petition is dismissed with liberty to the petitioner to approach the competent Court under the provisions of Cr.P.C for redressal of her grievances, if any. With the aforesaid liberty, this petition is ordered to be dismissed.