

(2013) 09 P&H CK 0360

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-31541 of 2013 (O and M)

Shamsher Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 19-09-2013

Acts Referred:

Citation : (2013) 09 P&H CK 0360

Hon'ble Judges : Sabina, J

Bench : Single Bench

Advocate : Sukh Pal Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Sabina, J.—Petitioner has filed this petition u/s 482 of the Code of Criminal Procedure, 1973 seeking directions to respondents No. 2 and 3 for taking action against respondent No. 4 for causing injuries to the petitioner and for committing theft of Innova Car bearing No. PB-10-CJ-0016 of the petitioner.

It has been held by the Apex Court in Sakiri Vasu Vs. State of U.P. and Others, as under:-

24. In view of the above mentioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate u/s 156(3) Cr.P.C. to order registration of a criminal offence and/or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision.

25. We have elaborated on the above matter because we often find that when some one has a grievance that his FIR has not been registered at the police station and/or a proper investigation is not being done by the police, he rushes

to the High Court to file a writ petition or a petition u/s 482 Cr.P.C. We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters, and relegate the petitioner to his alternating remedy, firstly u/s 154(3) and Section 36 Cr.P.C. before the concerned police officers and if that is of no avail, by approaching the concerned Magistrate u/s 156(3).

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 officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the 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?

2. Since the petitioner is virtually seeking a direction for registration of FIR, no ground for interference is made out in view of Sakiri Vasu's case (supra).

3. However, petitioner would be at liberty to approach the Magistrate u/s 156(3) of the Code of Criminal Procedure, 1973, if so advised. Dismissed.