

Rajpreet Kaur @ Sukhpal Kaur And Another Vs State Of Punjab And Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 21, 2021

Acts Referred: Code Of Criminal Procedure, 1973 â€” Section 156(3)
Constitution Of India, 1950 â€” Article 226

Hon'ble Judges: Avneesh Jhingan, J

Bench: Single Bench

Advocate: Kehar Singh Hissowal, Rashmi Attri

Final Decision: Dismissed

Judgement

Avneesh Jhingan, J

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition is filed seeking direction to Senior Superintendent of Police, Mansa (respondent No. 2) to consider the representation dated 27.12.2020

(Annexure P-3) made by the petitioners and to protect their life and liberty from the hands of private respondents (arrayed in the petition).

The facts in brief are that petitioner No. 1 was earlier married to Gurdarshan Singh. After his death in April, 2017, she got married to petitioner No. 2-

Harpal Singh. As per the pleadings, petitioner No. 1 has one acre of land and the possession thereof is with respondents No. 5 to 7. It is stated that the

police is harassing the petitioners to put pressure for transferring the land in the name of the private respondents.

Learned counsel for the petitioners argues that the petitioners have moved a representation dated 27.12.2020 to respondent No. 2 but no action has

been taken.

Learned counsel for the State submits that it is purely a property dispute between the petitioners and the private respondents.

After hearing the arguments and considering the pleadings, it is evident that there is a dispute with regard to property. There is nothing on record to

show that the petitioners are being summoned or called to the police station. From the perusal of the representation made, it is forth coming that there

is only a bald statement that the police is harassing, and the life and liberty of the petitioners be protected. There is no pleading that there is any

complaint or FIR pending with the police in the matter. Rather, while arguing the case, learned counsel for the petitioners argued that now there is no

dispute pending between the petitioners and the private respondents.

In *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and others*, (2016) 6 SCC 277, the Supreme Court opined as under:

2. This Court has held in *Sakiri Vasu v. State of U.P.*, that if a person has a grievance that his FIR has not been registered by the police, or having

been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the

Constitution of India, but to approach the Magistrate concerned under section 156(3) CrPC, 1973. If such an application under section 156(3) CrPC,

1973 is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct

proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a

proper investigation is done in the matter. We have said this in *Sakiri Vasu* case because what we have found in this country is that the High Courts

have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not be able to

do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach

the Magistrate concerned under section 156(3) CrPC, 1973 and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of

the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation.

4. In view of the settled position in *Sakiri Vasu* case, the impugned judgment of the High Court cannot be sustained and is hereby set aside. The

Magistrate concerned is directed to ensure proper investigation into the alleged offence under section 156(3) CrPC, 1973 and if he deems it necessary,

he can also recommend to the SSP/SP concerned a change of the investigating officer, so that a proper investigation is done. The Magistrate can also

monitor the investigation, though he cannot himself investigate (as investigation is the job of the police). Parties may produce any material they wish

before the Magistrate concerned. The learned Magistrate shall be uninfluenced by any observation in the impugned order of the High Court.

(emphasis supplied)

Petitioner has alternative remedies. There is not even a prima facie material on record to support the bald statement made in representation. No case

is made out for interference in writ jurisdiction.

The petition is dismissed.