(2007) 07 P&H CK 0150

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M- 40840 of 2007

Prem Kumar		APPELLANT
	Vs	
State of Punjab and Others		RESPONDENT

Date of Decision: July 26, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 154, 173, 190, 200, 203
- Penal Code, 1860 (IPC) - Section 323, 34, 452, 506

Hon'ble Judges: S.S. Saron, J

Bench: Single Bench

Advocate: Gaurav Sharma, for the Appellant;

Final Decision: Dismissed

Judgement

S.S. Saron, J.

This petition has been filed u/s 482 Code of Criminal Procedure for issuance of directions to Respondents No. 2 and 3 to register FIR against Respondent No. 4.

2. The dispute is between the brother (Petitioner) and his sister (Respondent No. 4). The same relates to the demolition of wall in portion of the house where they are staying at Mansa. In respect of the wall that has been demolished case FIR No. 133 dated 29.6.2007 for the offences under Sections 452, 506, 323 and 34 IPC has been registered at Police Station City Mansa on the complaint of Respondent No. 4. The grievance of the Petitioner is that his cross-version as mentioned in the application dated 29.6.2007 (Annexure-P.1) submitted to the SSP, Mansa (Respondent No. 2) is not being considered. It is submitted that independent FIR or, in any case, cross-version on the basis of the application dated 29.6.2007 is liable to be recorded.

3. After giving my thoughtful consideration to the contentions of the learned Counsel for the Petitioner and perusing the record it may be noticed that in respect of the occurrence of demolition of wall a FIR has already been registered. Therefore,

more than one FIR is not to be registered in respect of the same incident. In T.T. Antony v. State of Kerala, 2001(3) RCR(Crl.) 436 it was held by the Supreme Court that where information regarding offence was received by a Police Officer and FIR registered, second FIR is not to be registered on receipt of subsequent information regarding the same incident. The information first entered in the Station House Diary is the FIR postulated by Section 154 Code of Criminal Procedure The Police Officer is required to investigate the connected offence and file report u/s 173 Code of Criminal Procedure

4. In the present case, the grievance of the Petitioner is that the version of the Petitioner is not at all being considered by the SHO Police Station City Mansa (Respondent No. 4). Even the representation dated 7.7.2003 (Annexure-P.3) that has been submitted before the Senior Superintendent of Police, Mansa (Respondent No. 2) is not being attended to. In case there is refusal on the part of the Police to register the cross-version or take action on the complaint of the Petitioner, this Court in exercise of its inherent jurisdiction u/s 482 Code of Criminal Procedure is normally not to issue directions in that regard. As already noticed, FIR in respect of the occurrence has already been registered. The Supreme Court in Hari Singh Vs. The State of U.P., considered the case where direction was sought to conduct investigation by the CBI with respect to the murder of one Yashbir Singh son of the Petitioner therein. The allegations as made in the said case were to the effect that though FIR had been lodged with the Police that Yashbir Singh had been murdered and had not committed suicide but because of pressure of some influential people, the Police had not taken any positive steps and on the contrary the Petitioner therein was being harassed and threatened by certain persons. It was held that when information is laid with the Police but no action in that behalf is taken, the complainant can u/s 190 read with Section 200 Code of Criminal Procedure lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to enquire into the complaint as provided by Chapter-XV Code of Criminal Procedure The Magistrate can also issue directions for investigation under Chapter-XII Code of Criminal Procedure and seek for submission of a report in that regard. In case in the opinion of the Magistrate, there is no sufficient ground for proceeding further he is to dismiss the complaint by briefly recording his reasons in terms of Section 203 Code of Criminal Procedure Therefore, the Petitioner has an alternative remedy in the case of approaching the Magistrate concerned by filing a complaint and it would be inappropriate in the facts and circumstances of the present case to issue directions for registration of FIR or take action on the cross-version of the FIR.

5. Accordingly, the Petitioner may avail his alternative remedies available to him in accordance with law. The present petition is, therefore, dismissed with liberty to the Petitioner to avail alternative remedies, if so advised. Nothing stated herein shall, however, be construed as an expression on the merit of the application submitted by the Petitioner for taking action on the complaint given by the Petitioner and the

Court concerned shall consider the application in case it is filed independently and on the basis of material before it.

Petition dismissed.