

(2010) 11 P&H CK 0621

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. M-31827 of 2010 (O and M)

Bakhtawar Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Nov. 9, 2010

Acts Referred:

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

Citation: (2010) 3 SLR 358

Hon'ble Judges: Sabina, J

Bench: Single Bench

Judgement

Sabina, J.

This petition has been filed u/s 482 of the Code of Criminal Procedure (Cr.P.C. for short) with a prayer that directions may kindly be issued to Respondents No. 2 to 4 to conduct enquiry and to take legal action against Respondents No. 5 and 8 on the complaint dated 2.10.2010 given by Petitioner No. 2 regarding misappropriation of Rs. 15 lacs in accordance with Section 154(3) Code of Criminal Procedure Further prayer is for protection of life and liberty of the Petitioners.

2. Heard.

3. It has been held by the Apex Court in Sakiri Vasu v. State of U.P. and Ors. 2008 (1) RCR 392 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) Code of Criminal Procedure to order registration of a criminal Criminal Misc. No. M-31827 of 2010 (OandM) -2-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 Code of Criminal Procedure We are of the opinion that the High Court should not encourage this practice and should ordinarily refuse to interfere in such matters, and relagate the Petitioner to his alternating remedy, firstly u/s 154(3) and Section 36 Code of Criminal Procedure 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) Code of Criminal Procedure or other police officer referred to in Criminal Misc. No. M-31827 of 2010 (O and M) -3-Section 36 Code of Criminal Procedure 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) Code of Criminal Procedure instead of rushing to the High Court by way of a writ petition or a petition u/s 482 Code of Criminal Procedure Moreover he has a further remedy of filing a criminal complaint u/s 200 Code of Criminal Procedure Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies ?

4. Since, the Petitioner is virtually seeking direction for registration of FIR, no ground for interference is made out in view of decision of Apex Court in Sakiri Vasu's case (Supra).

5. Dismissed.