



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(117)

CRM-M-29327-2025

Date of Decision: 13.10.2025

Kxxx

.....Petitioner

Versus

State of Punjab and Another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Raman Sharma, Advocate for the petitioner.

Ms. Guramrit Kaur. DAG, Punjab.

KIRTI SINGH, J. (ORAL)

1. The present petition has been filed seeking issuance of directions to the respondents for transfer of investigation in case FIR No.8 dated 28.01.2025 (Annexure P-2) for offence under Sections 64 and 351(2) of BNS, 2023, registered at Police Station Mehta Amritsar Rural, to some other Investigating Agency, outside the territory of State of Punjab.

2. Learned counsel for the petitioner while narrating the brief factual matrix of the case, submits that the present petitioner, a woman of Indian origin settled in Canada since 2018, came into contact with Khushbir Singh(resident of Amritsar, Punjab and then in Canada on a work permit) in June 2021, who, it is alleged, physically, emotionally and financially exploited the petitioner by establishing physical relations with her under the pretext of marriage. The petitioner had also transferred Rs.8.5 lacs to the friend of the accused for wedding arrangements. They even jointly initiated a business in Canada. However, when the family of the petitioner visited India and met the family of the accused in January, 2025, they outrightly refused to the marriage proposal by giving excuses of religious differences. Thereafter, the petitioner made a complaint to the police, but the prompt action was not taken and the instant FIR was registered only after repeated



complaints. The investigation was also conducted in a very casual manner by the Investigating Agency, which failed to take coercive steps like issuing Look Out Circulars, against the accused and did not take immediate action on the complaint of the petitioner. Further, despite representations to the senior police officials and the Director General of Police, Punjab, no meaningful progress has been made. The petitioner apprehends bias and influence at the local level due to the connections of the accused, leading to unfair and partial investigation in the FIR and, thus, transfer of investigation is sought.

3. *Per contra*, learned State counsel has been filed State report dated 17.09.2025, by way of an affidavit Sh. Ravinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Jandiala, Amritsar (Rural) on behalf of respondents No.1 and 2. Relying on the contents of the same, it is submitted that after registration of the aforesaid FIR, investigation was commenced by ASI Kulwant Kaur No.522/ASR-R, but the petitioner did not disclose the place of occurrence, for which reason, the site plan could not be prepared. Cooperation in assisting the Investigation Agency with adequate and complete facts and evidence, was also not done by the prosecutrix. Furthermore, on 30.01.2025, the prosecutrix was produced before the learned Judicial Magistrate Ist Class, Amritsar, who recorded her statement under Section 183 of BNSS, 2023, wherein she reiterated the similar facts as alleged by her in her statement recorded before the Investigating Officer, but did not mention about any place of alleged occurrence even in her statement under Section 183 of BNSS, 2023. Learned State counsel further submits that the medico-legal examination of the prosecutrix was conducted at the Sub-Divisional Hospital, Jandiala during the course of the investigation and the final opinion given by the doctor, reproduced as follows:-



“After going through medicolegal report finding and FSL report No.DNA2025.288.FSL.Pb dated 24.06.2025. Human semen and male DNA was not detected on vulval and vaginal swabs stated to be of xxxx. Source exhibit A1, A2, A3, B1, B2, B3. I am of the opinion that the possibility of penetrative sexual assault cannot be ruled out. However, Investigating Officer is directed to take the circumstantial evidence into consideration.”

4. Learned State counsel also stated that the allegations made by the petitioner were not proved during investigation, for which reason cancellation of the present case, being registered on wrong facts, was recommended. The concluding paragraph of the said recommendation report reads as under:-

*"From the open and secret investigation conducted by me so far, it has come to light that Khushbir Singh had a mutual relationship with xxxx in Canada and both of them wanted to get married to each other, but due to Khushbir Singh's family's disapproval, Khushbir Singh's marriage was arranged in India on 25-01-2025. On 18-01-2025, Khushbir Singh came to India to get married, and when xxxx came to know about it, she also came to India on 20-01-2025, but due to the refusal of Khushbir Singh and his family for their marriage, xxxx appeared before SSP Amritsar Rural on 22-01-2025 that Khushbir Singh cheated on her and going to solemnize marriage elsewhere According to xxxx, Khushbir Singh was in a relationship with her in Canada and refused to marry her, and after coming to India, he fixed his marriage with another girl and due to this, for the same reason, **she has got registered a false case against Khushbir Singh that on 21-01-2025, Khushbir Singh has forcibly developed relations with her the area of Mehta town. Whereas on the evening of 21-01-2025, at the time of the alleged incident the location of the complainant xxxx was in Verka town near Amritsar and location of Khushbir Singh is at the matrimonial house of Village Bolwal, District Gurdaspur. The alleged occurrence is not proved and no truth is found in it. The***



cancellation report is required to be filed in it. If approved, appropriate orders may be issued to the Station House Officer, Police Station Mehta to file Cancellation Report in case FIR No.8 dated 28.01.2025 under section 64 and 351 (2) BNS, Police Station Mehta in the concerned Court. The recorded statements, CCTV recording, copies of Chat, doctor opinion and CDR of mobiles of both of them are attached herewith.”

5. Heard.

6. Before adjudicating the case, it would be apposite to make a reference to the judgment of the Hon’ble Supreme Court passed in the case of “***Sakiri Vasu vs. the State of U.P.***”, ***2008(1) RCR(Criminal) 392***, wherein it was expatiated that a Magistrate has all such incidental powers as are necessary for ensuring proper investigation, including the power to direct the conduct of further investigation. The relevant paras of the said judgment read thus:-

“11. In this connection we would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 Criminal Procedure Code, then he can approach the Superintendent of Police under Section 154(3) Criminal Procedure Code by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3) Criminal Procedure Code before the learned Magistrate concerned. If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation.”

Xxxx xxxxx xxxxx

13. The same view was taken by this Court in ***Dilawar Singh v. State of Delhi, 2007(4) RCR (Criminal) 115 : 2007(5) RAJ 37 :***



JT 2007(10) SC 585 (vide para 17). We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) Criminal Procedure Code, and if the Magistrate is satisfied he can order a proper investigation and take other suitable steps and pass such order orders as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) Criminal Procedure Code.

14. Section 156(3) states :

"Any Magistrate empowered under Section 190 may order such an investigation as abovementioned."

The words 'as abovementioned' obviously refer to Section 156(1), which contemplates investigation by the officer in charge of the Police Station.

15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Criminal Procedure Code 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.

*16. The power in the Magistrate to order further investigation under Section 156(3) is an independent power, and does not affect the power of the investigating officer to further investigate the case even after submission of his report vide Section 173(8). Hence the Magistrate can order re-opening of the investigation even after the police submits the final report, vide **State of Bihar v. A.C. Saldanna AIR 1980 Supreme Court 326** (para 19).*

xxxxx xxxxx xxxxx

25. We have elaborated on the above matter because we often find that when someone 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 under Section 482 Criminal Procedure Code 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 under Section 154(3) and Section 36 Criminal Procedure Code before the



concerned police officers, and if that is of no avail, by approaching the concerned Magistrate under Section 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 under Section 154(3) Criminal Procedure Code or other police officer referred to in Section 36 Criminal Procedure Code 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 under Section 156(3) Criminal Procedure Code instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Criminal Procedure Code Moreover he has a further remedy of filing a criminal complaint under Section 200 Criminal Procedure Code 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 under Section 482 Criminal Procedure Code 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 concerned police officers, and if that is of no avail, under Section 156(3) Criminal Procedure Code before the Magistrate or by filing a criminal complaint under Section 200 Criminal Procedure Code and not by filing a writ petition or a petition under Section 482 Criminal Procedure Code.

28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”

7. Insofar as the plea of transfer is concerned, it is settled law that transfer of investigation must not be allowed as a matter of routine, but only in circumstances where the facts so warrant. In the instant case, the learned



counsel has not been able to highlight any ground, backed with substantiating evidence, so as to warrant transfer of investigation, which, even otherwise, stands completed. In fact, in the instant case, a cancellation report has been prepared and has been submitted for consideration before the learned trial Court. Needless to say that the Magistrate is not bound by the report submitted by the Investigating Agency, and a decision would be taken upon the same by the Magistrate after application of mind and in accordance with law

8. As such, in view of the foregoing discussion, this Court is not inclined to interfere in the matter. Consequently, the present petition is hereby dismissed. However, the petitioner would be at liberty to avail alternate remedies in accordance with law.

9. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

October 13, 2025
Anjal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No