

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRWP-4083-2022 (O & M)****Date of decision: 02.05.2022**

Sunita Jagga and ors.

.... Petitioners

V/s

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Lupil Gupta, Advocate, for the petitioners.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

1. The prayer in the present criminal writ petition is for the issuance of a writ in the nature of Mandamus directing respondents No.1 to 5 to ensure the protection of the life and liberty of the petitioners and their family members at the hands of respondents No. 6 to 12, issue appropriate directions to respondents No.2 to 5 to take strict action against respondents No. 6 to 12 on the basis of complaint dated 09.03.2022 and to register a criminal case under the appropriate Sections of IPC and lastly to issue an appropriate direction to respondents No.4 and 5 not to call the petitioners in the police station without complying with the provisions of Section 160 Cr.P.C.

2. The brief facts of the case are that the petitioner No.1 and her husband (since deceased) were owners in possession of a residential house measuring 200 Sq.Yds. in F-Block, Sirsa, Tehsil and District Sirsa, within the limits of Municipal Corporation Sirsa, on the basis of registered Sale

share of the residential house to respondent No.10-Sunita Sethi wife of Vijay Sethi vide sale deed (Annexure P-1).

The remaining half share of the residential house was sold by petitioners No.2 to 4 to respondent No.11-Suman Devi wife of Shyam Sunder vide agreement (Annexure P-2).

3. The further case of the petitioners is that respondents No.6 to 12 prepared some forged documents of an agreement to sell with the late husband of petitioner No.1 in order to grab the entire property. Respondent No.6-Sandeep Mehta had made a false complaint to respondents No.4 to 5 that petitioner No.1 and her husband had received a sum of Rs.6,90,000/- from him and whenever he visited their house to demand the money back, he was threatened.

4. As per the case of the petitioners, petitioner No.1 received a phone call from respondent No.5-Incharge, Police Post, JJ Colony, Sirsa, District Sirsa and petitioner No.1-Sunita Jagga explained her position of having sold the entire property to respondents No.10 and 11. Despite this, the respondents No.4 and 5 were calling the petitioners to the police station and pressurizing them to compromise the matter with respondent No.6 and pay the money as demanded by him, and thus, they were being blackmailed. Proceedings under Sections 107/151 have been initiated against both the sides and they were released on bail by the Court. Proceedings under 138 were also pending between the parties. The petitioners were facing a threat at the hands of respondents No.6 to 12.

5. I have heard the counsel for the petitioners and perused the file.

6. The first prayer of the petitioner is for the issuance of a writ in the nature of Mandamus directing respondents No.1 to 5 to provide security

to the petitioners. In the light of the facts of this case, this prayer is

completely misconceived. Since different cases are pending between the parties, therefore, it appears that the present petition has been filed with a view to obtain some benefit either in a civil or a criminal case or before the police. Therefore, no orders are required to be passed regarding the protection of the life and liberty of the petitioners as it is the primary responsibility of the State to provide protection to all its citizens. There is nothing, which has been specifically pointed out that requires interference by this Court and as has been submitted hereinabove, and it seems that the attempt is to pressurize the respondents in collateral proceedings either initiated or sought to be initiated.

7. Regarding the second prayer seeking the issuance of directions to register an FIR is concerned, in terms of the judgment passed in the case of ***“Sakiri Vasu versus State of U.P. and others, 2008(1) RCR (Criminal) 392”***, the remedy for the petitioners would be to approach the Illaqa Magistrate under Section 156(3) Cr.P.C., if so advised.

8. As regards the third prayer to direct the investigating agency to comply with the provisions of Section 160 Cr.P.C. while calling the petitioners to the police station is concerned, it may be pertinent to mention that no such pre-emptory direction is required to be passed as there is a presumption that the investigating agency shall comply with the law while conducting any enquiry/investigation. Therefore, this prayer of the petitioners at this stage, is a misconceived. Having said this, I may also add that where the person is being called to the police station as an accused/prospective accused, in such a scenario, the said person may avail other legal remedies available since Section 160 Cr.P.C. applies to witnesses or persons acquainted with the facts of the case. Reference may be had to

N.M.T. Joy Immaculate, 2004(3) RCR (Criminal) 322. Further, the right claimed under Section 160 Cr.P.C. is not an absolute right. Reference may be had to the judgment of “*Mrs. Nalini Chidambaram versus The Directorate of Enforcement, Represented by its Director Government of India, 2018(2) MLJ (Criminal) 430*”.

9. In view of the above said discussion, there is no merit in the present petition, and thus, it is dismissed.

12. As a post script, I may add that this practice of filing such kind of petitions with multiple prayers must be discouraged as the attempt always seems to be to pressurize the investigating agency and/or the respondents and put them on the back-foot without the petitioners availing the actual legal remedies available either under the civil or criminal law or both.

(JASJIT SINGH BEDI)
JUDGE

May 02, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No