

106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15162-2023
DECIDED ON: 27th MARCH, 2023

SATNAM SINGH

....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vishal Mittal, Advocate
for the petitioner.

SANDEEP MOUDGIL, J. (ORAL)

The jurisdiction of this Court under Section 482 Cr.P.C., has been invoked seeking directions to the official respondents No.1 to 5 to restrain the private respondents from giving threats to the petitioner.

Learned counsel for the petitioner has contended that despite the PCR protection granted to the petitioner, the respondents are extending the threats to kill him.

A perusal of file reveals that earlier the petitioner has filed a criminal writ petition bearing CRWP No. 9870-2021 on the same cause of action, which was disposed off with a direction to Senior Superintendent of Police to look in to the representation dated 17.09.2021.

The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their

compulsive obsession, towards senseless and ill-considered claims. One needs to keep in mind, that in the process of litigation, there is an innocent sufferer on the other side, of every irresponsible and senseless claim. He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part. He pays for the litigation, from out of his savings (or out of his borrowings), worrying that the other side may trick him into defeat, for no fault of his. He spends invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his. Should a litigant not be compensated for, what he has lost, for no fault? The suggestion to the legislature is, that a litigant who has succeeded, must be compensated by the one, who has lost. The suggestion to the legislature is to formulate a mechanism, that anyone who initiates and continues a litigation senselessly, pays for the same. It is suggested that the legislature should consider the introduction of a “Code of Compulsory Costs”.

This abuse of the judicial process is not limited to any particular class of litigants. The State and its agencies litigate endlessly upto the highest Court, just because of the lack of responsibility, to take decisions. So much so, that we have started to entertain the impression, that all administrative and executive decision making, are being left to Courts, just for that reason. In private litigation as well, the concerned litigant would continue to approach the higher Court, despite the fact that he had lost in every Court hitherto before. The effort is not to discourage a litigant, in

whose perception, his cause is fair and legitimate. The effort is only to introduce consequences, if the litigant's perception was incorrect, and if his cause is found to be, not fair and legitimate, he must pay for the same. In the present setting of the adjudicatory process, a litigant, no matter how irresponsible he is, suffers no consequences. Every litigant, therefore likes to take a chance, even when counsel's advice is otherwise. .

The Apex Court in the case of “*Sakiri Vasu vs State of Uttar Pradesh and others*” (2008) 2 SCC 409; has held as under:-

“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) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. 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) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies?”

Thus a sequel to the above it can well be crystallized that when an aggrieved person approaches the court in a petition under Section 482 Cr.P.C., then the court is possessed with enormous powers to do justice or remove injustice. The Court's vast powers are meant to prevent any abuse of the process or to secure the ends of justice. These powers must be exercised for the advancement of justice. Ends of justice are always higher than the ends of mere law and for accomplishing that noble goal the courts have

rightly been invested with adequate powers. While saying so at the same time it has to be kept in mind that though the powers possessed by the High Court are extremely wide but the very plentitude of the power requires the court to function with greater caution and circumspection in the exercise of those powers. In other words, the power under Section 482 Cr.P.C., is to be exercised, *ex debito justitiae*, ie to do real and substantial justice.

Considering the afore-said facts and circumstances and also in view of the judgment referred hereinabove, added with the facts there is nothing on record to suggest that there is any threat perception to the life and liberty of the petitioner at the hands of the private respondents and also the petitioner has already filed a petition on the same cause of action, this Court is of the considered view that the present petition is nothing but an abuse of process of law and the same deserves to be dismissed with costs.

In view of above, the present petition stands dismissed with cost to the tune of R10,000/-, which shall be deposited in the Punjab & Haryana High Court Bar Association Welfare Fund created for widows.

27th MARCH, 2023

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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>