

CRM-M-44177-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 04.09.2023

RandeepKaur

....Petitioner

V/s

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.Daljinder Singh, Advocate for the petitioner.

Mr. DhruvDayal, Addl.A.G., Punjab.

ARUN MONGA, J. (Oral)

Petitioner seeks indulgence of this Court to direct official respondents no.1to 4 to look into her representation dated 24.06.2023 (Annexure P-1) and take steps to initiate further proceedings viz. hold an enquiry/investigation and take steps to protect her life and liberty as she apprehends threat at the hands of private respondents no.5 and 6.

2. Brief facts first. The petitioner, residing with her mother-in-law Amarjit Kaur while her husband was confined in jail, experienced an incident on 22.06.2023 at approximately 04:30 p.m. Respondent Nos. 5 and 6, Davinder Singh alias Ghona and Soni, armed with weapons, forcibly began tilling the petitioner's agricultural land, which was under their possession. When the petitioner and her mother-in-law attempted to stop them, the respondents verbally abused them, physically pushed them, and engaged in a scuffle that resulted in torn clothing and physical injuries to the petitioner. The petitioner and her mother-in-law sought medical treatment at Civil Hospital, Moga, for their injuries. The petitioner reported the matter on police helpline No.112, leading to the accused being taken

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in custody. Their tractor was also taken custody. Subsequently, petitioner and her mother-in-law initially approached the SadarMoga police station and higher-ranking officers to take action against the accused but received no response. They then submitted representations and sent emails to higher-ranking officers, including the SSP Moga, on 24.06.2023, attaching translated copies of the past complaints and emails as Annexures P-1 and P-2. Petitioners aver that respondent Nos. 5 and 6 continue to move freely in the area and threaten the petitioner's family to withdraw her application. Due to the police's inaction against these individuals, who are making threats, the petitioner fears further physical assault or being falsely implicated in a case.

3. Learned counsel for the petitioner argues that despite the petitioner's efforts to bring the matter to the attention of higher-ranking officials, no action has been taken against the private respondents by the police.

4. He relies upon judgment of the Apex Court titled as “*Bhajan Kaur vs. Delhi Administration and Roy. V.D. vs. State of Kerala*”¹ to submit that personal liberty is fundamental and the very purpose of Article 21 of Constitution of India would be defeated if the State does not take adequate measures for securing its compliance. He would argue that life and liberty of an individual is sacrosanct and it cannot be taken away except under the authority of law.

5. Notice of motion.

6. Learned State counsel, on service of advance copy of the petition, appears and accepts notice on behalf of the respondent-State of Punjab. He opposes the prayer made. He contends that police has assured to conclude the investigation in an impartial and fair manner by considering the grievances of petitioner from all angles.

¹2001 CrL LJ. 165

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4. I have heard learned counsel for the parties and gone through the case file.

5. *Qua* the police action or the inaction, in my opinion, the petitioner ought to have first approached learned *I laqa*/Area Magistrate under Section 156 (3) Cr.P.C for redressal of her grievance, if any, before directly approaching this Court. Section 156 (3) *ibid*, empowers a Magistrate to ensure proper investigation. Even otherwise, ordinarily, in case of a grievance arising out of non-registration of an FIR, the aggrieved can seek recourse to remedy by approaching Superintendent of Police under Section 154(3) Cr.P.C. or any other competent police officer per Section 36 Cr.P.C. Even thereafter, if grievance is yet unmitigated, one can then take judicial recourse by approaching a Magistrate of competent jurisdiction under Section 156(3) Cr.P.C. Not only that, an aggrieved party can choose to file a criminal complaint under Section 200 Cr.P.C., if so advised. Reference may be had to Apex Court judgment in “*Sakiri Vasu versus State of U.P and others*”².

6. In the premise, petition is disposed of with liberty to approach the appropriate forum for redressal of grievance, as aforesaid. As regards threat to the life and liberty of the petitioner and her mother in law, as averred in the petition, the respondent no.3 and 4 are directed to verify her threat perception/apprehensions and if so warranted, take further steps in accordance with law.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 04, 2023
Ajay

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

²2008 (2) SCC 409