

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

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**CWP-30304-2022
Date of decision: 16.03.2023**

THANA SINGH JOHAL

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Munish Gulati, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing the respondents No.1 to 4 to decide the representations dated 22.10.2021 and 24.08.2022 (Anneuxres P-1 and P-2) respectively.

The petitioner claims that he works as an agriculturist and also participates in various social events in the local area. He claims to be associated with the Congress party and his wife also served as District President of the Women Cell. She also contested the election as Councillor from Ward No. 49 on the Congress party ticket but lost to the candidate of Shriomani Akali Dal. Due to political rivalry, there had been an altercation and dispute.

The petitioner thus claims to be falsely implicated in case hearing FIR No. 83 dated 16.08.2019 registered under Sections 307, 379-B,

384, 506 of the Indian Penal Code, 1860 and Section 27 of the Arms Act at Police Station Sadar, Moga.

It is averred that the petitioner faced trial in the aforesaid FIR and was eventually acquitted by the Additional Sessions Judge, Moga vide judgment dated 09.03.2020.

After the acquittal, the petitioner submitted a representation to the concerned authorities but no action has been taken thereupon. The present petition has thus been filed for seeking directions to the respondents to take a decision on the representation Annexure P-1 and P-2 submitted by the petitioner.

Learned counsel appearing on behalf of the petitioner could not make a reference to any provision of law under which the Inspector General of Police and/or the Senior Superintendent of Police is obligated to look into any such representation and is required to pass a speaking order thereupon. In the event of the petitioner being aggrieved of the investigation conducted by the police official or against having been subjected to any harassment, the Police Act provides for grievance redressal mechanism by way of approaching the Police Complaints Authority. Besides, the petitioner is also alleging malicious prosecution and compensation against the same. The remedy available to him in law is to institute an appropriate proceeding before the criminal Courts./Civil Courts after the judgment of acquittal. Instead of taking recourse to the remedies available to him in accordance with law, the petitioner has devised the present petition as a means of seeking issuance of directions to the respondent authorities to decide on the representation qua the allegations of malicious prosecution.

The writ remedy is not in alternative to the remedies available as per law or to act as a bye-pass to the remedies prescribed under the law.

In the absence of any such statutory obligation on the respondent- police authorities to direct prosecution of the Investigating Agency or to examine the issues raised in the representation, the institution of the present petition is misconceived. The same is accordingly dismissed. The petitioner may, if so advised, take recourse to the alternative remedies available to him in accordance with law qua the allegations leveled therein.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 16, 2023
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No