



CRM-M-19799-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19799-2024 (O&M)

Date of decision: 17.12.2024

Satish Kumar Saini and another

... Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Satish Kumar Saini (petitioner No.1 in person) with
Ms. Anuradha Saini (petitioner No.2 in person).

Mr. Anup Singh, AAG Punjab.

Mr. Akashdeep Singh, Special P.P., CBI
for respondent No.5.

Mr. K.S. Sidhu, Advocate
for the applicants-proposed respondent Nos.6 and 7.

SUMEET GOEL, J.

1. The petition in hand has been filed by the petitioners (who also appeared/argued in person) under Section 482 of Cr.P.C., 1973 for issuance of direction(s) for registration of an FIR against one Inspector Rupinder Singh, SHO, Police Station, Phase-8, Mohali and other accused named in the complaint dated 10.03.2024 (copy whereof has been annexed as Annexure P-1 with the instant petition) and subsequent representation dated 22.03.2024 (copy whereof has been annexed as Annexure P-2 with the instant petition); for transfer of consequential investigation of the FIR so registered to Central Bureau of Investigation (hereinafter to be referred as 'CBI'); to award

**CRM-M-19799-2024****2**

compensation to the victims (including the petitioners herein) & for further direction to the official respondents not to take any coercive action against the petitioners (herein) in pursuance of any counter case registered by the Punjab Police without the leave of this Court and/or with an advance notice, of atleast, fifteen days in writing to the petitioners.

2. The gravamen of the complaint in question (Annexure P-1);which was submitted by the complainant (petitioner No.1 herein) to Director General of Police, Punjab Police Headquarters, Chandigarh; is that on the day of occurrence, at about 12:40 P.M., he went to the bathroom to take a bath. Suddenly, he heard noises and the door of his bathroom was forcibly kicked open thus breaking the latch. A person, later identified as SHO Rupinder Singh, whom the complainant has never met before, entered the bathroom. Without any conversation, he started physically assaulting the complainant with punches and kicks, including a kick on the private parts. It was further alleged that the two accompanying Constables, who were not wearing nameplates, held the complainant tightly by his hands during the assault. After having dragged the complainant into the bedroom, the said Rupinder Singh threatened the complainant to vacate the house and hand-over the possession to Mr. Sharma (owner of Sharma Tent House, Phase-10, Mohali), Mukesh Virmani, Pawan Mahajan, Chetan Mahajan and their accomplices. He also issued threat that failure to comply within one week would result in fabricated police cases against the complainant and his family members alongwith

**CRM-M-19799-2024****3**

severe consequences. It was further alleged that before the alleged assault the aforesaid accused alongwith ASI Bhupinder Singh had forcibly entered the house of the complainant by breaking open the main wooden and mesh doors whereupon all the aforesaid accused physically assaulted the wife of the complainant as she attempted to record their illegal entry using her mobile. The accused snatched the mobile phone of the wife of the complainant and when she tried to escape to the drawing room, the accused dragged her outside to the veranda and continued their aggression. It was further alleged by the complainant that his son namely Kartik Saini, who was in his bedroom, was also assaulted by the accused, including HC Sukhjit Singh. They inflicted severe injuries, tore his T-shirt and chased him outside the house through the back gate. Even on the street (outside House No.1050), the accused Sukhjeet Singh and one Constable continued to assault the son of the complainant, snatched his gold chain (approx. 1 tola in weight) and his mobile phone. It was further alleged in the complaint that before leaving at around 1:00 PM, the accused stole the car keys of the complainant and drove away the same to an undisclosed location. The dashboard of the car had Rs.42,500/- in cash and three debit cards. On account of the physical injuries sustained, the complainant and his family sought treatment at Government Hospital, Sector-32, Chandigarh. In view of the facts narrated hereinabove as also involvement of the Police officials, the complainant had requested for the strict action.

**CRM-M-19799-2024****4**

3. The petitioners (who appeared in person) have argued that the complaint which was filed by them contains clear accusations of cognizable offences of illegal trespassing, criminal assault, sexual harassment of petitioner No.2, snatching/robbery etc. as also for causing physical injuries to the petitioners and their son at the instance of the persons named in the complaint in connivance with the police officials but no action, muchless as required in law, has been undertaken by the Punjab Police. It has been iterated that the crime(s) committed is clearly visible in the CCTV footage, as available with the petitioners, which has already been furnished to the police authorities. It has been further argued that the dishonest intent behind the police not taking the requisite action, in accordance with law, due to senior Police Officer of Punjab Police being bent upon grabbing the property of the petitioners illegally and, thus, unlawful pressure is being exerted upon the local police not to take action as envisaged in law. Furthermore, petitioners have submitted that the crimes committed by the accused are part of a larger conspiracy to forcibly dispossess the petitioners from their property. According to the petitioners, the petitioner No.1, who has 50% ownership right in the property in question, became aware of an illicit deal between his brother and a senior Police Officer of Punjab Police and in response thereto, the petitioners filed a suit for permanent prohibitory injunction to restrain any interference in their peaceful possession of the property. It is iterated that, instead of following due legal process, the senior police Officer has resorted to illegal means by leveraging

**CRM-M-19799-2024****5**

his official position and authority and the ongoing harassment is a part of deliberate attempt to pressurize the petitioners to vacate the property in question. Such misuse of power by the Police demonstrates a blatant disregard for the law and a gross abuse of authority. The petitioners have further iterated that since there is involvement of senior Police Officer(s) behind the scene, the local Police will not be able to undertake the investigation in a free and fair manner and hence the matter ought to be investigated by the CBI.

4. Notice in the instant petition was issued whereupon the State has furnished reply/status report. The status report dated 06.11.2024 filed by way of an affidavit of Harsimran Singh Bal, Deputy Superintendent of Police (City-II), District SAS Nagar, shows that the petitioners (herein) are having a property dispute with their extended family members as they had sold their share (Ist floor of their house) to one Pawan Mahajan and the said property dispute is the genesis of the dispute in question. The State has further iterated that the civil cases are going on between the rival parties before the concerned Court in this regard. It has been further stated that the petitioner No.1-Satish Kumar Saini did not present himself at the Police Station, in connection with the inquiry of the complaint in question, despite repeated reminders. It has been further argued by the learned State counsel that despite the availability of alternate remedy, the petitioners have chosen to approach this Court without any sufficient cause & hence the petition deserves to be rejected.



CRM-M-19799-2024

6

5. Learned counsel appearing for the CBI has submitted that the facts of the present petition do not warrant that the investigation of the case ought to be undertaken by the CBI as the local Police is well equipped to deal with the matter of this kind. It has been further submitted by the learned counsel that the CBI shall abide by all the directions/orders passed by this Court, in letter and spirit.

6. An application bearing No. CRM-34216-2024 has been preferred by one Smt. Chetna Mahajan and one Sh. Pawan Mahajan seeking their impleadment as party-respondents in the main petition. It has been iterated in the said application that the applicants are stake-holders in the matter in hand as they have purchased 20% share in the house in question from one Shri Harish Kumar Saini and civil litigation is pending adjudication *qua* the said house. It has been further averred in the application that the petitioners (herein) have been regularly creating mischief and causing harassment to the applicants. It has been further iterated that the petitioners (herein) are habitual complainants and have been making multiple false/frivolous complaints against many persons, including the applicants, so as to exert pressure for settlement of the civil dispute(s), as per the terms of the petitioners. Learned counsel appearing for the applicants-proposed respondent Nos.6 and 7 has accordingly made submission in tandem with the said application. Learned counsel has further argued that the petitioners, who have opted to appear in person, are not well versed with law and legal procedures & hence ought not to



CRM-M-19799-2024

7

be allowed to appear on their own as such endeavour (to appear in person) is actually aimed at garnering undue sympathy of the Court.

7. During the course of proceedings, the petitioners were asked as to whether they wish to engage a Counsel & in case of adverse financial cause(s) whether assistance of free legal aid counsel was required; but the petitioners, in a persistent spirit, have responded that they wished to present their case on their own. *Ergo*, this Court proceeded further with the case in hand accordingly.

Prime Issue

8. The prime issue for consideration in the present petition is as to whether this Court ought to issue a direction for registration of an FIR in terms of the complaint made by the petitioners; refer investigation thereof to CBI & grant other/ancillary prayer(s) as sought for in the petition.

The seminal legal issue that arises for consideration of this Court is as to whether a litigant/party to a *lis* has a right to appear in person and plead his/her own case.

Relevant Statutory Provisions

9. The Advocates Act, 1961

“29. Advocates to be the only recognized class of persons entitled to practice law – Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one class of persons entitled to practice the profession of law, namely, advocates.

32. Power of court to permit appearances in particular cases – Notwithstanding anything contained in this Chapter, any court, authority, or person may permit any person, not enrolled as an



advocate under this Act, to appear before it or him in any particular case.”

Relevant (Case Law)

10. The precedents, germane to the matter(s) in issue, are as follows:-

I. Re: Role of Advocates in our Justice Dispensation System

(i) A three Judge Bench of the Hon’ble Supreme Court in a judgment titled as ***Dr. D.C. Saxena vs. Hon’ble the Chief Justice of India, 1996(5) SCC 216***, has held as under:

“35. Advocacy touches and asserts the primary value of freedom of expression. It is a practical manifestation of the principle of freedom of speech which holds so dear in a democracy of ability to express freely. Freedom of expression produces the benefit of the truth to emerge. It aids the revelation of the mistakes or bias or at times even corruption. It assists stability by tempered articulation of grievances and by promoting peaceful resolution of conflicts. Freedom of expression in arguments encourages the development of judicial dignity, forensic skills of advocacy and enables protection of fraternity, equality and justice. It plays its part in helping to secure the protection of other fundamental human rights. Legal procedure illuminates how free speech of expression constitutes one of the most essential foundations of democratic society. Freedom of expression, therefore, is one of the basic conditions for the progress of advocacy and for the development of every man including legal fraternity practicing the professin of law. Freedom of expression, therefore, is vital to the maintenance of free society. It is essential to the rule of law and liberty of the citizens. The advocate or the party appearing in person, therefore, is given liberty of expression. As stated hereinbefore they equally owe countervailing duty to maintain dignity, decorum and order in the court proceedings or judicial process. The



liberty of free expression is not to be confounded or confused with licence to make unfounded allegations against any institution, much less the judiciary.

II Golden Rule of Interpretation/Literal Rule of Interpretation

(i) A Five Judge Bench of the Hon'ble Supreme Court in a judgment titled as ***Chief Justice of A.P. v. L.V.A. Dikshitulu, 1979(2) SCC 34*** has held as under:-

"63. The primary principle of interpretation is that a constitutional or statutory provision should be construed according to the intent of they that made it"(Coke). Normally, such intent is gathered from the language of the provision. If the language or the phraseology employed by the legislation is precise and plain and thus by itself, proclaims the legislative intent in unequivocal terms, the same must be given effect to, regardless of the consequences that may follow. But if the words used in the provision are imprecise, protean, or evocative or can reasonably bear meaning more than one, the rule of strict grammatical construction ceases to be a sure guide to reach at the real legislative intent. In such a case, in order to ascertain the true meaning of the terms and phrases employed, it is legitimate for the Court to go beyond the arid literal confines of the provision and to call in aid other well-recognized rules of construction, such as its legislative history, the basis scheme and framework of the statute as a whole, each portion throwing light on the rest, the purpose of the legislation, the object sought to be achieved, and the consequences that may flow from the adoption of one in preference to the other possible interpretation."

(ii) In a judgment rendered by Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Laxmi NarainDhut, 2007(3) SCC 700***, it has been held as under:

"29. "Golden Rule" of interpretation of statutes is that statutes are to be interpreted according to grammatical and ordinary sense of



the word in grammatical or liberal meaning unmindful of consequence of such interpretation. It was the predominant method of reading statutes. More often than not, such grammatical and literal interpretation leads to unjust results which the Legislature never intended. The golden rule of giving undue importance to grammatical and literal meaning of late gave place to 'rule of legislative intent'. The world over, the principle of interpretation according to the legislative intent is accepted to be more logical.”

Analysis (re law)

11. The right of an aggrieved individual to approach a judicial forum is a cornerstone of the rule of law and forms a fundamental pillar of our democratic legal system. However, the exercise of this right is not unqualified and is subject to procedural and adjectival laws established by the legal framework of the land. These procedural norms are designed to ensure not only the effective redressal of grievances but also the orderly functioning of courts. In furtherance of these objectives, the Advocates Act, 1961, places a general restriction on non-advocates appearing and practicing before Courts as a matter of right. This statutory framework is aimed at safeguarding the quality of judicial proceedings by ensuring that those appearing before the Courts possess the requisite legal expertise and understanding of the law. The Indian Judicial System, operating primarily on an adversarial framework, inherently relies on the advocates of rival parties to facilitate the effective conducting of judicial proceedings. This system entrusts; the responsibility of presenting facts, evidence and legal arguments; upon the advocates, who act as intermediaries between their clients and the Court. The



role of the judiciary is not confined to determining which party has presented its case more effectively or persuasively; rather, it is committed to the higher objective of dispensing justice in accordance with law, equity and the principles of fairness. This justice-oriented approach necessitates that the Court receives adequate assistance from rival sides, enabling it to reach decision that aligns with the ends of justice. Advocates play a pivotal role in this process, acting as essential instruments in the administration of justice. A judge, often likened to the charioteer of justice, requires the support of well-informed and legally skilled advocates who function as the wheels of the chariot, ensuring its smooth and effective movement. Without such assistance, the judicial process risks being impaired, leaving the Court ill-equipped to address the complexities of disputes brought before it. The adversarial judicial system in our country is fundamentally dependent on the competence, integrity and ethical conduct of advocates. By conferring the nearly exclusive right to represent parties in Court upon qualified professionals, the Advocates Act, 1961 ensures that the judiciary is supported by individuals who possess the requisite legal knowledge and professional commitment. Advocates, as officers of the Court, bridge the gap between the parties and the judiciary, providing the Court with the assistance it needs to fulfill its constitutional mandate of delivering justice. This partnership between the bench and the bar forms the backbone of the judicial process, fostering a system where justice prevails, not through the rhetorical prowess of one party over another, but through



a fair and informed adjudication of disputes. The role of advocates in this system, therefore, transcends mere representation; it is integral to the preservation of the rule of law and the realization of justice. Advocates are the Officers of the Court and they will not necessarily tell the Courts only those things which go in favour of their clients but will also let the Court know about the factors, especially the ones in law, which would go against their clients. Advocates do not plead only for their clients but they, infact, plead to assist the Court in reaching the correct conclusions. The Hon'ble Supreme Court in the case of ***Dr. D.C. Saxena*** (supra) has elucidated the salutary *nay* indispensable role of Advocates in our justice dispensation system. Therefore, a near exclusive right has been vested in '*Advocates*' to cause representation before a Court/authority etc. in Section 29 of the Advocates Act, 1961.

12. The statutory provision, for enabling a party-in-person to appear on his/her own, is essentially encapsulated in Section 32 of the Advocates Act, 1961. A bare perusal of this provision would reflect that, a discretionary power has been vested in the Court/authority etc. to allow a party-person to appear on his/her own, by use of the word "*may*". This word signifies a conferment of power where the power is wide enough to cover both an acceptance and a refusal of a plea, depending upon the facts of such plea. Ordinarily, the word "*may*" is not a word of compulsion. It is an enabling word and it only confers capacity, power or authority and essentially implies discretion. Still further; the Golden Rule of Interpretation (Literal Rule of



Interpretation), as relied upon by the Hon'ble Supreme Court in the judgments of ***Dikshitulu's*** case (supra) and ***Laxmi NarainDhut's*** case (supra), when applied in the present scenario to Section 32 of the Advocates Act of 1961, shows that the language as also phraseology employed in this legislation is precise, plain, unambiguous and unequivocal and the power reserved in the Court/authority etc. is discretionary in nature. In other words, it is left entirely upon the discretion of the concerned Court/authority etc. to examine the feasibility of granting permission to any person to assist the Court on her/his own.

There is no gainsaying that, such discretion ought to be exercised by a Court/authority, in accordance with the well settled principles of justice, equity and good conscience. An age old adage by *Lord Halsbury*, which met with approval by the Hon'ble Supreme Court, reads thus:

“Discretion, in general, is the discernment of what is right and proper. It denotes knowledge and prudence, that discrement which enable a person to judge critically of what is correct and proper united with caution; nice discrement, and judgment directed by circumspection; deliberate judgment; soundness of judgment; a science or understanding to discern between falsity and truth, between wrong and right, between shadow and substance, between equity and colourable glosses and pretences, and not to do according to the will and private affections of persons. When it is said that something is to be done within the discretion of the authorities, that something is to be done according to the rules of reason and justice, not according to private opinion; according to law and not humour. It is to be not arbitrary, vague and fanciful, but legal and regular. And it must



be exercised within the limit, to which an honest man, competent to the discharge of his office ought to confine himself.”

13. In our judicial adjudicatory system, there are two prime aspects, *firstly*, the Judge needs the assistance of trained advocates in order to decide the controversy correctly, *secondly*, the dignity of the judicial process and Courts ought to be preserved. If a party-in-person fails in both or even in any one of them, it would be a tragedy for the Court as well as for the litigant. May be a litigant loses his/her case only because he/she was not able to project the case correctly before the Court or may be because he/she is not well aware as to what conduct is expected of him/her in a Court room. Sometimes such a conduct can be voluntary or sometimes it can be innocent but the danger of dilapidation of the justice system is always imminent. A litigant may have a cogent cause to seek for appearing in *propria persona* in the Court, to defend his/her interest/right and may try to demonstrate sufficient as well as imperative reasons for the intervention of the Court in the matter, but may be actually a naïve person who is unable to put forth his/her case properly. It is the province of the Judge to recognize the lack of formal legal training of such litigants, *ergo* be lenient towards procedural errors committed by them; sometimes, judges may provide guidance or explanation to such litigants regarding the court procedures and rules, aiming to ensure that such litigants have a fair opportunity to present their cases. Hence, to promote access to justice some flexibility in the otherwise straight jacketed procedures may be allowed. Nonetheless,



it has been observed that despite the resoluteness, intelligence and best intentions on the part of such litigants, in most of the scenarios, there is an acute deficiency of even basic information in laws and legal processes. Such exiguous legal know-how becomes detrimental to the case/petition itself, rather it exacerbates the hardships of disputations, and may also cause such a litigant to suffer serious consequences. Where a litigant, though not formally trained in law, demonstrates a reasonably sound understanding of legal principles, the procedural framework, and the facts of the case, the Court may consider allowing such a person to appear and address it. This ensures that access to justice remains meaningful and inclusive, particularly for informed and capable citizens seeking to represent themselves. However, the courts must exercise great caution in permitting uninformed or inadequately prepared individuals to plead their cases personally. Incompetent representation by ill-equipped litigants may result in incomplete presentation of facts, misinterpretation of legal principles, and a failure to address critical issues, thereby hindering the Court's ability to arrive at a just decision.

14. There is yet another aspect of the matter *viz.* if the litigant who seeks to represent himself/herself has poor antecedents or irresponsible behaviour or dubious character, the Court may receive counter-productive assistance from him/her. The Court, as also the entire justice system, would suffer if quarrelsome, ill-informed or block headed party-in-person is permitted to appear.



There are other situations where, if permission is granted to a party-in-person to appear for himself/herself, it may be obstructive *nay* destructive of justice. Such situations are, by nature thereof itself, are not capable of being exhaustively enumerated.

15. Especially, in the marital disputes, lack of the emotional distance and objectivity waylays the entire matter-in-hand. Disintegration of marriage is an affecting and stirring situation for both spouses, as well as for the extended family and close associates. Even the most rational, well grounded and sagacious of a person is likely to be disconcerted and unnerved in such a disheveled personal scenario; and this gets exacerbated, especially in a public forum like open Court proceedings. When emotions are running high or the parties are wrapped up in their emotional turmoil, no one is inclined towards constructive problem solving or dispute resolution. Indubitably, the parties also surmise that *only* they can present their case; *only* they can be privy to their injury, sufferings and troubles; that their circumstances are unique, peculiar and specific to an extent that no one else can commentate upon them. There is also an urge to vent out the overawed emotions, since no other forum, especially public forum is available to justify their stance. Often enough, the Court proceedings are overlaid with emotional turmoil and extend the suffering of the parties due to protracted and drawn out matches of words. In such cases, self-representation becomes a stumbling block.

The skepticism of a litigant(s) towards having an Advocate representing them stems out of a general wariness,



understandably, due to unfamiliarity with the legal system, technical and procedural. Often, this translates into a distrust towards representation by an Advocate as such no litigant believes that no standard legal framework can satisfy their unique circumstances. However, Advocates are bulwark of the well-wrought justice system, adept at legal procedures, proficient and well-versed with knowledge of laws, rules and regulations. And, a large workforce of advocates, specializing in various aspects of legal acumen, means that a large pool of expertise is in existence. If a litigant is stepping out to a public forum/open Court proceedings to covet justice, fairness and impartiality; he/she ought also attempt to rise above any prejudice or predilection towards distrust as regards the Justice system and those who all are committed towards upkeeping it, especially Advocates.

15.1. In case a litigant is wanting to appear in person for the reason, that he/she is unable to engage the assistance of a lawyer on account of financial constraint, the same can well be remedied by providing for a legal aid counsel. There is a robust mechanism provided for grant of free legal assistance under the aegis of the Legal Services Mechanism in this regard.

16. As a result of above-said rumination, the following postulates emerge:

- I. (i) There is no right *may* indefeasible right vested in a litigant to appear on his/her own before a Court/authority etc. & it is within the discretion of such Court/authority etc. to grant or not to grant permission to such litigant to appear on his/her own.



(ii) It is neither axiomatic nor fathomable to lay down any exhaustive set of guidelines for exercise of such direction by a Court/authority etc. as every case has its own peculiar factual matrix.

II. No written/specific application is required to be moved by a litigant to appear on his/her own.

III. In case a litigant wishes to appear on his/her own but is not permitted by the Court/authority etc.; and such litigant expresses financial constraint(s) for availing assistance/services of an Advocate; he/she ought to be provided the assistance of a free Legal Aid Counsel in case he/her is unable to engage a Counsel.

Analysis (re facts of the present case)

17. Now this Court reverts to the facts of the case in hand to ratiocinate thereupon.

18. From the pleadings set forth before this Court at the instance of the petitioners and upon hearing the petitioners, this Court is of the view that the petitioners, especially petitioner No.1 Satish Kumar Saini, are sufficiently well versed with the law and facts of the matter so as to be permitted to plead their own case. Accordingly, this aspect of the matter is closed and this Court proceeds to adjudicate upon the merits of the petition in hand.

19. At this juncture; this Court deems it appropriate to firstly consider, the application for impleadment (i.e. CRM-34216-2024), filed by the applicants-proposed respondent Nos.6 and 7. In a judgment titled as *NXXXXX vs. State of Haryana and others* = *Neutral Citation No.2024:PHHC:161052*; this Court, while dealing with the issue of right of a suspect/proposed accused to be heard



CRM-M-19799-2024

19

before transfer of the investigation of a case/FIR to CBI has held as under:-

“21. As a result of above-said rumination the following postulates emerge:

I. There is no right nay indefeasible right vested in the accused/suspect, to be heard, before the High Court passes an order for transfer of investigation of a case/FIR to CBI.

II (i) In case, a plea (for transfer of investigation of a case/FIR to CBI) brings forth accentuating circumstances requiring the accused/suspect to put forward his version for opposing such a plea, the High Court would be well empowered to grant such an opportunity.

(ii) It is neither conceivable nor desirable to even venture to lay-down any exhaustive set of guideline(s) in this regard, however alluring this aspect may be. Such exercise of inherent powers ought to be best left to the discretion of the Court which is in seisin of the matter, as every case is sui generis in nature.”

No accentuating facts have been brought forward before this Court by the applicants-proposed respondent Nos.6 and 7 to allow them an opportunity of hearing. Accordingly, the application for impleadment (CRM-34216-2024) is dismissed.

20. The prime prayer made by the petitioners is for issuance of directions to the Police for registration of an FIR on the basis of complaint (Annexure P-1) made by the petitioners. Ordinarily, a litigant/complainant ought to approach the Judicial Magistrate in the first instance for issuance of such like direction(s). From the pleadings put forth as also the submissions put forth before this Court by the petitioners, no impediment is discernible which restricts the petitioners from approaching the Illaqa/Jurisdictional Magistrate for



CRM-M-19799-2024

20

registration of the FIR as also for monitoring of investigation therein, as deem appropriate by the said Magistrate. In the considered opinion of this Court, the petitioners ought to have approached the concerned Illaqa/Jurisdictional Magistrate in the first instance, who is well empowered to grant the substantial relief(s) sought for in the present petition i.e. for issuance of direction for registration of FIR as also for free/fair investigation therein. No such accentuating facts/circumstances have been brought forward by the petitioners which may warrant interference of this Court under Section 482 of Cr.P.C., 1973 for issuance of direction for registration of the FIR etc.

21. Another prayer made by the petitioners (herein) is for transfer of investigation of the matter to CBI. This Court in the judgment titled as *NXXX* case (supra), while dealing with the powers and parameters for handing over investigation of a case to CBI has held as under:-

“13. As a sequitur to above said discussion, the following postulates emerge:

I. (i) The High Court is well empowered to direct a DBI investigation, of a cognizable offence, alleged to have been committed within the territory of a State/Union Territory. To clarify, such directions can be issued by the High Court without an FIR earlier having been registered by the State/Union Territory. For such direction by the high Court pertaining to investigation by the CBI, the consent of the concerned State/Union Territory is not required.

(ii) While exercising such power, the High Court is empowered to even direct for transfer to CBI, an investigation of an FIR, already registered and being investigated by State/U.T. Police.



(iii) *Such power may be exercised by the High Court either by way of its writ jurisdiction under Article 226 of the Constitution of India or by way of its inherent jurisdiction under Section 482 of Cr.PC., 1973/Section 528 of BNSS, 2023.*

II. (i) *Such power should be exercised sparingly, cautiously and in exceptional situations only where it becomes imperative to provide credibility as also instill confidence in investigation or where the incident has national/international ramifications or when such exercise of power is required for doing complete justice or is pertinently required for enforcement of the Fundamental Rights.*

(ii) *There is no gainsaying that the factors/principles enumerated hereinabove are illustrative in nature, for no inexorable formula can be laid down in this regard. In other words, it is not only difficult but is inherently impossible to state with exhaustive precision such factors/principles, since every case has its own unique factual conspectus.”*

22. The prime ground, pleaded by the petitioners, for transfer of the investigation of the matter in hand to CBI is that there are allegations against the local police official(s) of committing criminal trespass etc. as also for having favoured the suspect/accused. Though the petitioners have pleaded in the petition regarding the influence being exercised by a senior Police Official but no clear details thereof are emerging from the material placed before this Court. On the contrary, the State has taken a specific stand that the genesis of the entire dispute(s) is civil in nature & hovers around ownership/possessory rights of a house in question. In the considered opinion of this Court, the facts of the case in hand do not call for any investigation by the CBI. There is no Inter State ramification involved in the allegations raised by the petitioners. Simply because



some allegations have been made against the local police officials, the investigation of the matter cannot be transferred to CBI.

This Court must hasten to sound a word of caution herein. This Court has not delved deep into the merits of the rival contentions made by the parties as to whether the matter in hand is one involving primarily civil overtones since it may have adverse effect upon the rival claims of the parties. *Ergo*, the prayer for transfer of investigation to CBI ought to be rejected. No tangible material has been brought forward before this Court for grant of ancillary or other directions sought for in this petition. Accordingly, such prayer(s) deserves rejection as well.

Decision

23. It is, thus, directed as follows:

(i) The petition in hand; seeking registration of FIR against one Inspector Rupinder Singh, SHO, Police Station, Phase-8, Mohali and other accused named in the complaint dated 10.03.2024 and subsequent representation dated 22.03.2024; for transfer of consequential investigation of the said FIR to Central Bureau of Investigation; to award compensation to the victims (including the petitioners herein) & for directing the official respondents not to take any coercive action against the petitioners (herein) in pursuance of any counter case registered by the Punjab Police without the leave of this Court and/or with an advance notice of atleast fifteen days; is dismissed.



CRM-M-19799-2024

23

- (ii) The application, for impleadment (CRM-34216-2024) filed by the applicants-proposed respondent Nos.6 and 7, is rejected.
- (iii) Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of any proceedings initiated, in accordance with law, at the instance of the petitioners (herein).
- (iv) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

December 17, 2024

Whether speaking/reasoned:	Yes
Whether reportable:	Yes