

2024:PHHC:134341



103

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-4429-2024 (O&M)
Date of decision: 15.10.2024

Sukhjit Kaur @ Sukhjit Kaur Maan

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Arzoo Modi, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present criminal writ petition has been filed under Article 226 of the Constitution of India for issuance of directions to respondents No.2 to 4 to protect the life and liberty of the petitioner and her family members from the hands of private respondents.
2. Learned counsel for the petitioner, *inter alia*, contends that respondent No.5, who is husband of the petitioner, is a drug addict and gave beatings to her. Earlier, a compromise was effected between them and thereafter, a divorce petition was filed. Respondent No.5 came to parental

2024:PHHC:134341



house of the petitioner and threatened her, which can be clearly seen from the recording of CCTV camera. In this regard, the petitioner submitted a representation (Annexure P-5) before respondent No.2 on 30.04.2024, however, till date, the jurisdictional police authorities have not taken any action against respondent No.5. As such, the petitioner is left with no other option, but to approach this Court by filing the present petition.

3. On the other hand, learned State counsel has filed the status report by way of an affidavit of Roopdeep Kaur, PPS, Assistant Commissioner of Police (East), Ludhiana, on behalf of respondents No.1 to 4, in compliance of the order dated 29.05.2024 passed by this Court, in the Court today, which is taken on record. He submits that the complaint made by the petitioner was registered and she was called by a senior Constable Manjeet Kaur from her mobile number on 13.05.2024 at 11.12 a.m. and thereafter, at 12.27 p.m., she was again requested to join the inquiry, which is clearly discernible from the call details attached with the aforesaid status report. The apprehension of the petitioner is invalid, as matrimonial dispute is pending between the petitioner and respondent No.5. Further, on 17.08.2024, the petitioner and her husband-respondent No.5 have compromised the matter before the jurisdictional police authorities and the petitioner made a statement that she does not want any action on the said representation, as her husband has apologized.

4. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that representation

2024:PHHC:134341



dated 30.04.2024 (Annexure P-5) was filed by the petitioner due to ongoing matrimonial dispute with her husband and apprehension of the petitioner appears to be fanciful and not eminent and it is purely a private dispute between the petitioner and her husband-respondent No.5.

5. A two Judge Bench of the Hon'ble Supreme Court in ***Sakiri Vasu Vs. State of U.P. and others, (2008) 2 SCC 409*** has held that the Magistrate has been bestowed with all necessary powers to ensure proper investigation under Section 156(3) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [now Section 175(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')]. Discouraging the practice of approaching the High Court for redressal of grievances like non-registration of FIR or improper investigation, Justice Markandey Katju made the following observations:

“27. As we have already observed above, the Magistrate has very wide powers to direct registration of an FIR and to ensure a proper investigation, and for this purpose he can monitor the investigation to ensure that the investigation is done properly (though he cannot investigate himself). The High Court should discourage the practice of filing a writ petition or petition under Section 482 Criminal Procedure Code simply because a person has a grievance that his FIR has not been registered by the police, or after being registered, proper investigation has not been done by the police. For this grievance, the remedy lies under Sections 36 and 154(3) before the concerned police officers, and if that is of no avail, under Section 156(3) Criminal Procedure Code before the Magistrate or by filing a criminal complaint under Section



200 Criminal Procedure Code and not by filing a writ petition or a petition under Section 482 Criminal Procedure Code.

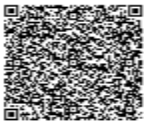
28. It is true that alternative remedy is not an absolute bar to a writ petition, but it is equally well settled that if there is an alternative remedy the High Court should not ordinarily interfere.”

6. This ratio was reiterated in the judgments rendered by the Hon’ble Supreme Court in ***Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhange and others, (2016) 6 SCC 277*** and ***M. Subramaniam and another Vs. S. Janaki and another, (2020) 16 SCC 728***.

7. The High Courts, while exercising its inherent powers under Section 482 Cr.P.C. (*now Section 528 of BNSS*), can issue directions for prompt and proper investigation, however, it would be out of bounds to instruct the investigation to be completed in a certain time frame, in alignment with the opinion expressed by it. The Courts must be conscious of its influence and not exercise the same in an unwarranted fashion as it may prejudice the conclusion of the investigating agency, straying further away from achieving the overarching goal of justice.

8. Further, even though the jurisdictional Magistrate is well equipped to deal with such type of matters, learned counsel for the petitioner has not able to provide a satisfactory response regarding approaching this Court directly instead of the concerned jurisdictional Court by filing an appropriate application under Section 156(3) Cr.P.C. (*now Section 175(3) of BNSS*).

2024:PHHC:134341



9. In view of the facts and circumstances of the case and also in the absence of any cognizable offence, no such direction can be issued. Accordingly, present petition is dismissed being bereft of any merit.

10. However, liberty is granted to the petitioner to invoke the alternative remedy as available to her, in accordance with law.

15.10.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No