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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRWP-5034-2024

Date of decision: 30.05.2024

Harpreet Kaur

....Petitioner

V/s

State of Punjab and others

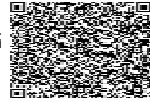
....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. G.P.S. Ghuman, Advocate with
Mr. Atul Kumar, Advocate for the petitioner.

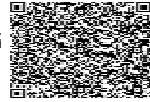
SUMEET GOEL, J. (Oral)

1. This is a criminal writ petition under Section Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent No.2 to protect the life and liberty of the petitioner at the hands of private respondent Nos.3 to 6 and with further prayer to decide the representation dated 15.04.2024 (Annexure P-5) within a stipulated time period, in accordance with law.
2. Succinctly facts first, as spelt out in the present petition is that marriage of the petitioner was solemnized with respondent No.3 at village Kauni on 28.05.2021 as per sikh rituals and Anandkarj ceremony at Gurdwara Tarn Taran Sahib, Sri Muktsar Sahib. It was *inter alia* alleged that the parents of the petitioner spent huge money and sufficient dowry/istridhan was given at the time of marriage as per their financial status and capacity. It was further alleged that from the beginning of the marriage the attitude and behavior of the accused persons towards the petitioner was not cordial and friendly. All the accused persons in connivance with each other started maltreating, harassing and taunting the petitioner for bringing insufficient dowry. However, on 06.07.2021, the husband of the petitioner (respondent

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No.3 herein) under the influence of liquor hurled abuses on the petitioner and used to beaten her severely without any reason. It was further alleged that the private respondents were raising the demand of dowry from the petitioner and her parents and as the articles demanded were not given they were ill-treating the petitioner. It was further alleged that on 29.09.2021, the petitioner got immense pain in the stomach and after she got herself medically examined at a hospital in Sri Muktsar Sahib, she came to know that she was pregnant. When the petitioner revealed the same to her husband and in-laws-accused (private respondents herein), then all the accused, in connivance with each other, hatched a conspiracy to abort her pregnancy and started putting pressure upon the petitioner. Ultimately, the petitioner was meted out cruel treatment both physically and mentally as also was forced to undergo abortion. It was also alleged that when the petitioner wanted to lodge a complaint in this regard and initiate legal action against the private respondents, they threatened her with dire consequences and ousted her from her matrimonial home. The petitioner apprehended that the private respondents would cause harm to her, therefore, she filed a complaint/representation before the concerned police authorities but to no avail which necessitated the petitioner to approach this Court for protection of her life and liberty as also to decide her representation.

3. Learned counsel for the petitioner has argued that the complaint clearly brings out the factum of cognizable offence(s) having been committed and hence the Police ought to have registered an FIR but the same has not yet been done. Learned counsel has further argued that a representation/complaint dated 15.04.2024 was also made to the Senior



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and liberty of the petitioner at the hands of private respondents as also taking legal action against the persons named in the above-said complaint/representation but no action has yet been taken. The true translated copy of the prayer clause of the said representation/complaint reads as under:-

“Keeping in view of above mentioned facts and circumstances it is most humbly prayed to protect the life and liberty of our client which is high danger and in the hands of accused Akashdeep Singh Mob.No.90415-60000 son of Parminder Singh alias Goga R/o # 305, Wembley Society, Black A, Sector 91, Mohali (Husband of our client), in the interest of justice.”

4. It has been argued that after the aforesaid representation/complaint, no action has yet been taken. Thus, the petitioner has been constrained to file the instant petition seeking the prayer(s) as indicated hereinabove. Learned counsel for the petitioner has further argued that due to non-action of the Police against the private respondents, petitioner met the higher officials and brought the matter in their knowledge, but no action has been taken.

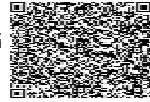
5. I have heard learned counsel for the petitioner and have perused the paper-book.

6. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-11075-2024** titled as ***Talima vs. State of Haryana and others***, decided on 12.03.2024; relevant whereof reads as under:-

“10. As a result of above discussion, the following postulates emerge:

I) Ordinarily, an applicant/complainant ought to approach, in the first instance, the Court of Illaqa/Jurisdictional Magistrate to seek prayer(s) for issuance of direction(s) for registration of FIR, monitoring of investigation in FIR as also other prayers of akin nature.

II) An Illaqa/Jurisdictional Magistrate has, by virtue of section 156(3) of Cr.P.C. of 1973, the requisite powers and jurisdiction to grant plea(s) for



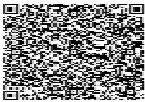
issuance of direction(s) for registration of FIR, monitoring of investigation in an FIR, change of investigating officer and prayer(s) of alike nature.

III) In a given case, if the facts/circumstances of such case so warrant, the High Court is well within its jurisdiction to entertain and consider plea(s) seeking registration of FIR, monitoring of investigation in a FIR, constituting an SIT (Special Investigating Team), change of investigating officer & all such prayer(s) of such kind and nature. However, it would be prudent that an applicant/complainant, while seeking to invoke the jurisdiction of the High Court under Section 482 of Cr.P.C. in the first instance seeking prayer(s) of above nature, shows sufficient cause for not having approached the Illaqa/Jurisdictional Magistrate in the first instance.

IV) The High Court, in its inherent jurisdiction under Section 482 of Cr.P.C has unbridled, unfettered and plenary powers. The only restriction on exercise of such powers is self-restraint. No inflexible and comprehensive guidelines can conceivably be enumerated governing the exercise of these intrinsic powers by High Court under Section 482 of Cr.P.C. There is no gainsaying that the nature, mode and extent of such exercise of powers by High Court under Section 482 of Cr.P.C shall depend upon the judicial discretion exercised by the High Court in the facts and circumstances of a given case.”

The abovesaid principles would also apply in case of a criminal writ petition preferred under Articles 226/227 of Constitution of India.

7. The prime prayer made in the petition is for issuance of directions for initiation of appropriate action against the private respondents in view of representation dated 15.04.2024 (Annexure P-5) made to Senior Superintendent of Police, District Shri Muktsar Sahib. The petitioner (herein) who claims that the private respondents threatened her to kill, committed offence of cheating, breach of trust and caused mental and physical cruelty to her, has chosen to invoke the inherent jurisdiction of this Court under Article 226 of the Constitution of India without even referring to, much less disclosing any impediment being faced by her in approaching the concerned Illaqa/Jurisdictional Magistrate by invoking Section 156(3) of



Cr.P.C., 1973. Section 156 (3) *ibid*, empowers a Magistrate to direct for registration of FIR as also to monitor the Investigation thereof. In this regard, reference may be made to judgment of the Hon’ble Supreme Court in “*Sakiri Vasu versus State of U.P and others*2008 (2) SCC 409”.

8. In the considered opinion of this Court, the petitioner 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. As regards protection of life and liberty of the petitioner, no such accentuating facts/circumstances have been brought forward by the petitioner which may warrant interference by this Court under Article 226 of the Constitution of India. It is, thus, indubitable that said apprehension expressed on behalf of the petitioner is nothing but a bald assertion.

9. Accordingly, this Court does not find the present case a fit one for exercise of its jurisdiction under Article 226 of the Constitution of India. The instant petition filed under Article 226 of the Constitution of India stands dismissed. Needless to state herein that the petitioner, if so advised, will be at liberty to file an appropriate petition under Section 156(3) of Cr.P.C., 1973 for redressal of her grievance(s), in accordance with law.

(SUMEET GOEL)
JUDGE

May 30, 2024
Ajay

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