

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-W-1121-2024 in/and
CRWP-9057-2023
Date of Decision: 23.09.2024

INDERJIT KAUR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Pardeep Kumar, Advocate
for the Petitioner.

Mr. Jasdeep Singh Gill, Addl A.G., Punjab.

SANDEEP MOUDGIL, J

1. Jurisdiction of this court has been invoked under Article 226 of The Constitution of India for issuance of a writ for protection of life and liberty by providing police protection to the petitioner and her family members which is at danger at the hands of private respondents as they are continuously coming to her house and office and putting Dharna under the shelter of one Social Activist named Bhana Sidhu, and defaming the petitioner by putting loud speaker in front of the house of the petitioner.
2. Factual matrix of the case unfolds that in 2022, respondent No.5 approached the petitioner to submit file for visitor visa for Canada for his son and daughter in law, who are respondents No.6 & 7, herein. However, it was decided that before applying tourist visa for Canada, they will go to

Europe and Dubai and accordingly, all the arrangements like visa and tickets etc. to visit Europe, from 16.02.2022 to 24.02.2022, were made by the petitioner itself and thereafter, arrangements to visit Dubai from 01.02.2022 to 01.04.2022 were made.(Annexures P-2 to P-4). However, when tourist visa for respondents No.6 & 7 for Canada was applied, it was rejected, (Annexures P-6 & P-7.) which came as a shock to the petitioner. When the petitioner apprised respondents No.4 to 6 about the refusal of visa, they behaved very rudely and even misbehaved with her and even asked for the return of their entire money without realizing that out of around 16 lacs charged by the petitioner for arranging tourist visas for Europe and Dubai, hotel expenses for both places and even Canada also, about 4-5 lacs were spent by her in all this process. Rest of the money, she was ready to return to the private respondent but they raised demand of the entire money charged by the petitioner from them, which is not a reasonable demand. In order to pressurize her, respondents No.4 to 6 took the help of Kissan Unions and even from activist Bhana Sidhu wherein they used to come daily to the office of petitioner and did not allow the employees or customers to enter the office and moreso, these persons started stalking the petitioner and even visited her house on 30.08.2023 and gave threats to her to either kill her or get implicated in a false case under immigration act.

3. Counsel for the petitioner contends that the people from Kissan Unions and Bhana Sidhu are behind them because these people have put Dharna outside the house of the petitioner and are defaming her by making different announcements on loud speaker due to which she is facing harassment and stigma to her name. He further argues that petitioner's

mother, who is aged 70, has gone under depression, mental trauma and respondents No.4 & 6 have not realized that the petitioner has nothing to do with the acceptance/rejection of visa application(s) of any body. As such, the life and liberty of the petitioner and her family members is at danger at the hands of private respondents and their supporters, like Kissan Unions and so-called social activist – Bhana Sidhu, therefore, respondents No. 1 to 4 may be directed to provide police protection to the petitioner and her family members and protect their life and liberty at the hands of private respondents No.5 to 9.

4. On the other hand, learned State Counsel has submitted that the present petition is a vague petition because vide order dated 14.09.2023, this Hon'ble Court, while issuing notice of motion, was pleased to direct the Commissioner of Police, Ludhiana, to assess the threat perception of the petitioner and in case any threat exists, then shall ensure that no harm is caused to the petitioner. However, an affidavit was filed in this regard on 12.12.2023, according to which the petitioner was not facing any threat perception, however, it was stated on behalf of the petitioner by her counsel that one social activist in the name of Bhaana Sidhu is organizing Sangat Darshan in the State of Punjab and he is also calling the petitioner repeatedly, whereupon this Hon'ble Court was pleased to call for an affidavit of an officer not below the rank of a Superintendent of Police posted at Headquarters, Punjab, to verify as to whether the aforesaid person organizes any Sangat Darshan or not.

5. In compliance of the order dated 12.12.2023, an affidavit was furnished by Mr. Sarabjit Singh, PPS, Assistant Inspector General of Police,

Litigation, Bureau of Investigation, Punjab, Chandigarh, who had apprised the Hon'ble Court that requisite information was obtained from all the field units in the State of Punjab, but as per the information received from all the field units, no such instance of organizing Sangat Darshan by the aforesaid person namely Bhana Sidhu has been reported to the police. As such, this petition is liable to be dismissed by vague and filed on wrong facts.

6. Heard both the counsels for their respective parties and also perused the case file.

7. From the perusal of the case file, it has revealed that the present petition has been filed with ulterior motive and on mischievous assertions in order to over come the possibility of registration of an FIR against the petitioner at the instance of respondent No.5, or any of the private respondents, under IPC or/and Immigration Act. As is evident from the fact that the date of rejection of visas of respondents No.6 & 7 is 06th January, 2023 and this petition was filed on 05.09.2023. Meaning thereby, had there been any threat perception, the petitioner would not have waited for good 8 months to file this petition. It appears that the petitioner anticipated possibility of police action against her and that's why she immediately filed this petition for protection so as to defeat that possibility.

8. Further, on the asking of the Court, two different police officers have filed their respective affidavits whereby they have denied any threat perception. The file further shows that even before furnishing affidavit by the Assistant Inspector General of Police on 26.02.2024, the petitioner, vide CRM-W-239-2024 (dated 22.02.2024) sought to place on record CD, (Annexure P-10) regarding threat perception and also to show the conduct

and threats given by accused Bhana Sidhu to the petitioner and other persons on social media and also by sending their goons to the petitioner's office. She further filed another application being CRM-W-313-2024 to place on record counter affidavit to the affidavit of Assistant Inspector General of Police, which shows that the petitioner intended to prolong the proceedings on one pretext or the other.

9. However, in compliance of the order dated 29.05.2024, Assistant Inspector General of Police, Litigation, has filed another affidavit to the effect that as per DITAC Lab report, no data is available in C.D. whereupon one day's time was given to the petitioner to produce any copy of C.D. and the compliance was made and vide order dated 31.07.2024, State was granted ten days' time to file report as well as the status report in the matter.

10. Meanwhile, the petitioner has filed CRM-W-1121-2024, whereby she has sought to file amended memo of parties in the present case and also to place on record the screen shot(Annexure P-13) of the call details, called to police officials when she was assaulted and harassed by the supporters of Bhana Sidhu on 15.07.2024 and her calls made to the police went in vain. She was compelled by the persons of Bhana Sidhu to compromise the matter. On 02.09.2024, Bhana Sidhu put Dharna and gave interview wherein he defamed the petitioner.

11. In compliance of the order of this Court, Assistant Commissioner of Police (East), Ludhiana, has filed the status report whereby it is informed to the Court that the clips have been picked up from Social Media and it is also found that no Sangat Darshan programme was held by

the activist Bhana Sidhu. Further, an FIR being FIR No. 54 dated 20.01.2024 under Section 384 IPC has been registered against Bhana Sidhu and the accused has been arrested by the police. It is also stated in the status report that C.D. has been sent to State Cyber Crime, SAS Nagar, Mohali to verify as to whether recording in C.D. is tempered/edited one or not, however, the report is still awaited.

12. If the above status report is seen together with the affidavit dated 2.11.2023 of Mr.Gurdev Singh, Assistant Commissioner of Police (East), Ludhiana, who has submitted that the photograph of some Bhana Sidhu annexed by the petitioner with the petition as (Annexure P-8) is not outside the house/residence of the petitioner. Meaning thereby, the petitioner has not come before this Court with clean hands and has been misleading the Court time and again whereas her motive and intention behind her prayer made in the present petition is only to save her skin from.

13. The Hon'ble Supreme Court, while dealing with the matter of ***Ramveer Upadhyay versus R.M. Srivastava and others 2013(7) Scale 564*** held as under:-

7. However, in our experience, we have hardly seen any security of 'Z' or 'Y' category provided to any ordinary citizen howsoever, grave the threat perception or imminent danger may be to the person concerned. The petitioner, however, has claimed it obviously as a 'privileged class' by virtue of being an ex-minister which at times, may be justified even to an ex- minister or any other dignitary, considering the nature and function of the duties which he had discharged, which could facilitate the assessment of his threat perception even after laying down the office. But what exactly is his threat

perception and whether the same is grave in nature, obviously will have to be left to be decided by the authorities including the authorities of the State or the Centre which may include even the Intelligence Bureau or any other authority concerned which is entitled to assess the threat perception of an individual. But in so far as the Court of law is concerned, it would obviously be in a predicament to come to any conclusion as to whether the threat perception alleged by a person claiming security is grave or otherwise which would hold him entitled to the security of a greater degree, since this is clearly a question of factual nature to be dealt with by the authorities entrusted with the duty to provide security after assessing the need and genuineness of the threat to any individual.”

14. While placing reliance on the aforesaid judgment of the Hon'ble Apex Court, a Division Bench of the Allahabad High Court in the matter of “***Abhishek Tiwari versus State of U.P. and others***” passed in ***Misc. Bench No.10867 of 2021***, decided on 04.08.2021 has observed as under:-

“29. As a matter of principle, private individuals should not be given security at State cost unless there are compelling transparent reasons, which warrant such protection, especially if the threat is linked to some public or national service they have rendered and, the security should be granted to such persons until the threat abates. But, if the threat perception is not real, it would not be proper for the Government to grant security at the cost of taxpayers money and to create a privileged class. In a democratic country governed by rule of law and written Constitution providing security at State

expense ought not to become an act of patronage to create a coterie of 'obliged' and 'loyal' persons.”

15. The gravity of threat has to be real and not just based upon perceptive apprehension.Limited public resources cannot be deployed for display of eminence and as an attempt to bolster the ego of the recipient of such protection.

16. Consequently, this Court does not find any case in favour of the petitioner which may convince this Court to accept her prayer made in the instant petition for providing her police protection and resultantly, the present petition alongwith all the proceedings arising therefrom fails and the same is, thus, hereby ordered to be dismissed.

23.09.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

:Yes/No