

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

Date of decision: 28.10.2024

....Petitioners

Versus

...Respondents

Present: Ms. Vibha Nagar, Advocate
for the petitioners.

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

HARPREET SINGH BRAR, J. (ORAL)

1. The present criminal writ petition has been filed under Articles 226/227 of the Constitution of India for protection of life and liberty of the petitioners envisaged under Article 21 of the Constitution of India against the inhuman, torturous acts of respondent No.4 who in connivance with respondent No.5 subject the petitioner, her siblings who are minor and her mother to domestic violence, mental, physical and psychological torture attacking their liberty, life, safety and security of their person and property read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, for issuance of appropriate writ orders or directions to official respondents for safeguarding the life and liberty of the petitioners.

2. Learned counsel for the petitioners *inter alia* contends that petitioner No.1 is daughter of private respondent No.4 who has gathered courage to blow whistle against her own father who has committed domestic violence on her and her mother and other siblings and respondent No.4 has

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subjected the petitioners to physical abuse as he used to beat the petitioners mercilessly on trivial issues. In the year 2019, merely because there was some extra salt in the dish of private respondent No.4, he lost his temper and hit petitioner No.2 on her head with his heavy *kada* due to which her head started bleed and she became unconscious. Respondent No.4 did not allow petitioner No.2 to get any medical aid. On 10.04.2020, the father-in-law of petitioner No.2 passed away and after his demise, the acts of torture and physical abuse on the petitioners rose many folds. Petitioner No.1 is law graduate who studies law after her grand father provided her support and presently, she is working as daily wager in a departmental store under the fear of her father. Private respondents have threatened petitioner No.1 of dire consequences and petitioners No.3 to 5 were not allowed to go to their school and their education has hampered to great extent and respondent No.4 has in the process of selling the house in which the petitioners are staying as he is having extra marital affair with respondent No.5.

3. Per contra, the learned State counsel submits that it is a private matrimonial dispute between respondent No.4 and petitioner No.2 and no specific instance has been pleaded or alleged which could remotely suggest that petitioners apprehend danger at the hands of respondent No.4. Only one incident of the year 2019 has been pleaded in para 6 of the petition and petitioners have approached this Court directly without exhausting other efficacious remedies available to them.

4. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds no force in the arguments advanced on behalf of the petitioners.



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) Cr.P.C. 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 Dhangre and others, (2016) 6 SCC 277, M. Subramaniam and another Vs. S. Janaki***



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and another, (2020) 16 SCC 728, Dilawar Singh vs. State of Delhi 2007(4) R.C.R(Criminal) 115.

7. The High Courts, while exercising its inherent powers under Section 482 Cr.P.C., 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.

9. In view of the facts and circumstances of the case, this Court is not inclined to issue any such direction. Accordingly, present petition is dismissed being bereft of any merit.

(HARPREET SINGH BRAR)
JUDGE

28.10.2024*Neha*

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