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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-11229-2024 (O&M)
Date of decision: 21.11.2024

Manpreet Kaur and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohit Singla, Advocate
for the petitioners.

HARPREET SINGH BRAR, J. (ORAL)

1. Present criminal writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondents No.2 & 3 to protect the life and liberty of the petitioners from the hands of respondents No.4 to 11 and further to decide the representation dated 11.11.2024 (Annexure P-3).
2. Learned counsel for the petitioners, *inter alia*, contends that marriage of petitioner No.1 was performed with Kulwant Singh (since deceased), who was son of respondent No.4, on 13.04.2015 and out of the said wedlock, two children i.e. one son and one daughter were born and they are

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presently residing with petitioner No.1. During the lifetime of deceased Kulwant Singh, respondents No.4 to 8, 10 & 11 used to harass petitioner No.1 for bringing less dowry and they, in connivance with him, turned her along with her children out of the matrimonial home after giving beatings to her. Thereafter, petitioner No.1 filed a petition under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [*now Section 144 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')*] titled as '*Manpreet Kaur and others Vs. Kulwant Singh*' and an application under Section 33 of the Code of Civil Procedure, 1908 and both these cases are pending before the concerned Court. On 19.09.2024, husband of petitioner No.1 i.e. Kulwant Singh consumed some pesticide/poisonous medicine and his father-respondent No.4 took him to Kakkar Hospital, Morinda, but instead of advised by the doctor to admit him in the hospital for treatment, they got discharged him within 3-4 hours and came back to home. On 22.09.2024, on coming to know about this incident, petitioner No.1 along with her children went to her matrimonial home at Village Mankheri and she got admitted her husband in Shergill Hospital, Morinda for proper treatment and during treatment, on 28.09.2024, the police recorded his statement to the effect that due to mental distress, he himself consumed the pesticide/poisonous medicine and he does not want any action against anyone and in this regard, an entry was made in the general diary vide GD No.19 dated 28.09.2024 (Annexure P-2).



3. Learned counsel for the petitioners further contends that during his treatment, Kulwant Singh assured petitioner No.1 to take care of her and their children and he also assured her to take them in her matrimonial home. However, on 19/20.10.2024, when petitioner No.1 was at her parental home, all the private respondents, in connivance with each other, got discharged Kulwant Singh from the hospital and took him to home and ultimately, he died on 22.10.2024 and post-mortem was not conducted and after informing about death of her husband on 23.10.2024 in the morning, his body was cremated. On 02.11.2024, the private respondents submitted an application against the petitioners to the Deputy Superintendent of Police, Morinda, who called the petitioners, where respondents No.4, 6 & 9 told them that when Kulwant Singh was alive, he was under mental distress and he uttered some words against the petitioners and they made a video clip of the same and now after his death, they have moved the said application in order to put pressure on the petitioners to withdraw the case against respondent No.4, due to which his retiral benefits have been withheld by his department and he is not getting pension, as he was working in the Department of Water Supply and Sanitation and lastly, he was posted at Water Supply Complex, Phase-2, Sector 54, SAS Nagar. Respondents No.7 & 11 also threatened the petitioners to withdraw the case against respondent No.4, otherwise they would implicate them in some false case, as they have links with higher police officials.



4. Learned counsel for the petitioners submits that petitioner No.1 submitted a representation dated 11.11.2024 (Annexure P-3) to respondent No.2, however, till date, no action has been taken thereon.

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

6. 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.”

7. 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***.

8. 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.

9. Further, even though the jurisdictional Magistrate is well equipped to deal with such type of matters, learned counsel for the petitioners 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*).

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

21.11.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No