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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-11742-2024

Date of decision: 09.12.2024

Amrit Lal

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Ravisha Mahajan, Advocate
for the petitioner.

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

HARPREET SINGH BRAR, J. (ORAL)

1. The present criminal writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing respondents No.2 and 4 to protect the life and liberty of the minor daughter of the petitioner from respondents No.5 to 10 who has kept the minor daughter in their illegal custody and further to take appropriate legal action on the representation dated 18.04.2024 (Annexure P-2).

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is a fruit vendor and is living on rent in Amritsar with his wife and four children, namely, Neha, Neelam, Sunny and Bittu. It is further alleged that his elder daughter, namely, Neha, used to go to Jain Mandir to attend and learn sewing and on 21.12.2023, he did not return back home from the sewing classes and when the petitioner enquired about her whereabouts, he came to know that his daughter is taken or kidnapped by respondent No.5. It is thus prayed to issue an appropriate direction to the official respondents to protect the life and liberty of the daughter of the petitioner.



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3. The learned State counsel submits that equally efficacious remedy is available before the Magistrate who is well equipped to deal with such prayer.

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 petitioner.

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

09.12.2024

Neha

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