



CRWP-3440-2025

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

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CRWP-3440-2025

Date of decision: 07.04.2025

Toshim

...Petitioner

V/s

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ajay Kumar Gupta, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Article 226 of the Constitution of India, seeking issuance of a writ/order or direction in the nature of mandamus or any other appropriate writ, directing respondent No.2 to provide adequate police protection to the petitioner to safeguard his life and personal liberty as also to refrain the respondent No.2 from unlawfully harassing the petitioner at the behest of respondent No.3 or anybody else. Further prayer has been made seeking direction to respondent No.3 not to interfere into his peaceful life as also not to harass him illegally or forcibly.

2. The case as set up by the petitioner in the instant petition is as follows:

2.1. The petitioner, who alleged that he is facing dire and extraordinary situation wherein his own grandmother, harboring a revengeful attitude, is actively threatening his safety and well-being. The residential property in question is jointly owned, with parents of the petitioner holding a 50% share and the grandmother owning the remaining half. The petitioner resides on the ground floor with his family while the



grandmother occupies the first floor. It has been further alleged that this harassment stems from the instigation of one Usha Rani, wife of Pawan Kumar, who is employed as a cook in the Police Station at Giddarbaha. The said Usha Rani, in connivance with her husband and sons, has malicious intentions towards the self-owned property of the petitioner and had been actively conspiring, with respondent no. 3, to dispossess the petitioner and his family from their lawful residence. Furthermore, respondent No.3, leveraging her relations within the police department, has previously been instrumental in filing multiple false complaints against the petitioner and his family but all such complaints were found to be baseless. Thereafter, the father of the petitioner was constrained to file a civil suit seeking an injunction against the DSP, SHO of Police Station Giddarbaha, respondent No.3, and Usha Rani, to restrain them from causing mental and physical harassment wherein a stay order dated 24.09.2024 (Annexure P-2) was granted by the Court thereby restraining the respondent(s) from interfering in the suit property in possession of the petitioner except in due course of law. It has been further alleged that after the issuance of the aforesaid stay order, the harassment was shifted towards the petitioner himself who was being followed, threatened, and raided by the local police under the pretext of instructions from the respondent no. 3. However, neither any FIR or criminal case is pending against the petitioner nor is he wanted in any investigation and despite this, he is being targeted unlawfully. Furthermore, the petitioner alleged that the respondent No.3 is unlawfully exploiting the current government initiative aimed at combating drug abuse wherein the public has been encouraged to report suspicious individuals. However,



respondent No.3 is misusing this mechanism to maliciously and falsely implicate the petitioner. The police officials, taking undue advantage of this policy, are unlawfully attempting to apprehend the petitioner from his workplace, residence, or in public spaces without any cause or legal justification. This unconstitutional conduct of the local authorities has severely impacted the ability of the petitioner to move freely, earn a livelihood, or even reside peacefully in his own home. Moreover, the fundamental rights of the petitioner are under grave threat. Following the incident, the petitioner has also sent an e-mail/representation to the Director General of Police, Punjab, and the Senior Superintendent of Police, Sri Muktsar Sahib, on 18.03.2025, highlighting the unlawful actions and seeking immediate protection. However, no further measures/steps were taken by the Police to ensure the protection of the petitioner. The petitioner has alleged that despite bringing these threats to the attention of the police authorities, no substantial action has been taken by the police. In light of the above circumstances, the petitioner humbly prays for appropriate directions to ensure the protection of his life and liberty.

3. Learned counsel for the petitioner has iterated that the petitioner is entitled to protection under the Constitution of India, including the right to live peacefully with his parents and brother. According to learned counsel, the actions of respondent No.3 and her associates with the alleged support of the local police, amount to a clear violation of Article 21 of the Constitution, which guarantees the right to life and personal liberty. The petitioner, being a major, is facing a real and imminent threat to his safety due to continuous harassment and open threats at the hands of private respondent(s).



Furthermore, the petitioner has no other effective, speedy or statutory remedy available and is therefore, constrained to approach this Court by way of the instant writ petition seeking protection of his fundamental rights.

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

5. The present petition has been preferred under article 226 of the Constitution of India, invoking the extraordinary writ jurisdiction of this court. The prime prayer made in the petition is that the local police, allegedly acting in collusion with respondent No.3, are unlawfully interfering in the life of the petitioner further endangering his liberty and well being. The petitioner (herein) who claims that the local police/private respondent(s) have extended threats to him and exerting pressure upon the Police to falsely implicate the petitioner in a false case, has chosen to invoke the inherent jurisdiction of this Court under Article 226 of the Constitution of India without even referring to any material which substantiate the averments so advanced. 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. Mere bald and unsubstantiated averments, devoid of cogent material, does not confer upon the petitioner an entitlement to invoke the extraordinary writ jurisdiction of this court. The invocation of writ jurisdiction must be predicated upon demonstrable facts and credible material that prima facie establish a legal right & its infringement. Absent



such foundational substance, the petition is rendered speculative. The writ court, being a court of equity & discretion, is not to be moved on the basis of vague, hollow assertions bereft of probative value.

6. The petitioner has averred to have moved a representation (Annexure P-4) to DGP, Punjab, whereof no action alleged to have been taken by the concerned authority. In case the petitioner is aggrieved by commission of any offence against him, the same can be efficaciously redressed by approaching the competent magistrate having jurisdiction in the matter. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-34678-2024** titled as **AXXXX vs. vs. State of Punjab and others**, decided on 31.07.2024; relevant whereof reads as under:-

“11. As a sequel to above rumination, the following postulates of law emerge:

I. An Illaqa/Jurisdictional Magistrate has; by virtue of Sections 173 and 175 of BNSS, 2023; the necessary powers and jurisdiction to grant plea(s) for issuance of direction(s) for registration of an FIR, monitoring of investigation in an FIR, change of investigating officer and prayer(s) of alike nature.

II. 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 an FIR, monitoring of investigation in an FIR as also other prayers of akin nature.

III. In a given case, if the facts/circumstances so warrant, the High Court is well within its jurisdiction to entertain and consider plea(s) seeking registration of an FIR, monitoring of investigation in an 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 a High Court under Section 528 of BNSS, 2023 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. A High Court, in its inherent jurisdiction under Section 528 of BNSS, 2023 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 a High Court under Section 528 of BNSS, 2023. There is no gainsaying that the nature, mode and extent of such exercise of powers by a High Court under Section 528 of BNSS, 2023 shall depend upon the judicial discretion exercised by a High Court in the facts and circumstances of a given case.”

6.1. It is a well-entrenched tenet of the constitutional jurisprudence that the extraordinary jurisdiction under article 226 is not to be lightly or casually invoked, nor is it to be treated as an alternative forum to bypass established legal channels. The writ jurisdiction, though wide & potent in its sweep, is circumscribed by certain self-imposed limitations rooted in prudence. Where a statutory mechanism is available, which is not only efficacious but also adequate in addressing the alleged grievance, the High Court, in exercise of its writ jurisdiction, must exhibit judicial restraint. The writ court is not to be converted into a court of first instance for adjudication of disputes for which an efficacious statutory framework exist. A profitable reference in this regard can be made to the dicta passed by a constitutional bench of the Hon’ble Supreme Court in the case of ***Union of India vs. T.R.***

Verma, 1957 AIR Supreme Court 882, relevant whereof reads thus:

*“..... It is well-settled that when an alternative and equally efficacious remedy is open to a litigant, he should be required to pursue that remedy and not invoke the special jurisdiction of the High Court to issue a prerogative writ. It is true that the existence of another remedy does not affect the jurisdiction of the court to issue a writ: but, as observed by this court in ***Rashid Ahmed v. Municipal Board, Kairana, (1950) S.C.R. 566***, “the existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs”. Vide also ***K.S. Rashid & Son v. The Income-tax Investigation Commission, (1954 S.C.R. 738, 747***. And where such remedy exists, it will be a sound exercise of discretion to refuse to*



interfere in a petition under Article 226, unless there are good grounds therefore.”

The principle of self-restraint, which this court ordinarily observes in matters where an alternative remedy is available, acquires profound relevance & weight when such alternative remedy partakes a judicial character. In such instances, the jurisdiction of this court ought to be exercised with circumspection, *lest* it transgress the bounds of judicial discipline. To entertain a matter in the absence of the exhaustion of an equally efficacious & statutorily prescribed remedy before competent jurisdictional magistrate would not only amount to an impropriety in the exercise of writ jurisdiction but would also constitute a departure from the salutary principle of subsidiarity that undergirds the statutory scheme. It is neither consistent with the hierarchy of remedies nor constant with the orderly administration of justice for this court to interlude prematurely, thereby rendering the legislative architecture otiose and undermining the forum expressly designated for such redressal.

7. 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.

(SUMEET GOEL)
JUDGE

April 07, 2025
Ajay

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