

2025:PHHC:111430



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

122

**CRM-M-32065-2025  
DECIDED ON: 28.07.2025**

**KOMAL**

**....PETITIONER**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

**Present:** Mr. A.S.Kang, Advocate for  
Mr. S.S. Nagra, Advocate for the petitioner.

Mr. JS Rattu, DAG Punjab

**SANDEEP MOUDGIL, J (ORAL)**

**Prayer:**

The jurisdiction of this Court has been invoked under section 528 BNSS 2023 for issuance of directions to respondent no. 2 and 3 to conduct fair and free investigation and to take appropriate legal action against the accused.

**Contentions:**

**On behalf of petitioner:**

Learned counsel for the petitioner submits that despite multiple attempts made by the petitioner to have a complaint registered against the accused persons who had allegedly trespassed into the petitioner's residence, committed acts of vandalism, verbally abused the petitioner's son, and assaulted him with datar and brick, yet no effective action was taken on the complaint dated 14.03.2025. Instead, it is alleged that FIR No. 40 dated 16.03.2025 was lodged falsely implicating the

petitioner's son and others, in alleged connivance with the local police authorities, specifically naming SHO Davinder Kashni.

It is further submitted that a subsequent complaint was also filed by the petitioner before the Senior Superintendent of Police (SSP) on 24.04.2025. However, in light of the alleged inaction and biased conduct of the local police, the petitioner has approached this Hon'ble Court seeking appropriate directions to ensure a free, fair, and impartial investigation into the matter.

**On behalf of the State:**

Learned counsel for the State submits that the present petition is misconceived and devoid of merit. It is submitted that the petitioner has not produced any credible evidence to support the claims advanced by the petitioner regarding alleged acts of vandalism and attack on petitioner's son. Moreover, the allegations made by the petitioner regarding police connivance and false implication are baseless, unsubstantiated, and appear to be an afterthought intended to derail the ongoing investigation.

It is further submitted that the FIR in question was registered based on a preliminary inquiry into the incident and the material available on record at the relevant time. Rather, the investigation so far reveals that the petitioner was involved in the altercation, and the FIR was rightly registered in accordance with law.

The State also submits that the petitioner's subsequent complaint dated 24.04.2025 is being looked into in accordance with established legal procedure, and due process is being followed. There is no reason to doubt the integrity of the investigation being conducted by the local police, and as such, the prayer for transfer of investigation or issuance of directions for a "free and fair" investigation is unwarranted and premature at this stage.

**Analysis**

Heard Counsel for both parties.

This Court is not unaware of the obligation that falls upon the State to ensure that justice is not only done, but manifestly seen to be done. In a democratic polity founded on the rule of law, every citizen is entitled to fair treatment and equal protection under the law. An investigation that lacks impartiality shakes the confidence of the people in the system and strikes at the heart of constitutional justice.

However at the same time, the remedy of directing free and fair investigation under Section 528, BNSS cannot be granted merely on the basis of apprehensions, however genuine they may seem to the petitioner. The power under this provision is an extraordinary one and must be exercised with restraint, only where the material on record discloses a reasonable apprehension of bias or demonstrable departure from lawful procedure. In the present case, while the concerns raised by the petitioner are not trivial, they are not supported by sufficient material to warrant the exercise of this Court's jurisdiction to direct conduct free and fair investigation. Allegations of police connivance are serious, but seriousness alone is not a substitute for substantiation.

The Court acknowledges the significance and utility of Section 528 of the BNSS, which confers inherent powers upon this Court specifically for the purpose of advancing the cause of justice. However, the Hon'ble Supreme Court, in ***Sakiri Vasu vs. State of U.P. & Others*, AIR 2008 SC 907**, has emphasized that such inherent powers must be exercised with restraint and only in situations where no other adequate or efficacious alternative remedy is available. The relevant paragraphs of the said judgment are reproduced below:

26. If a person has a grievance that his FIR has not been registered by the police station his first remedy is to approach the Superintendent of Police under Section 154(3) Cr.P.C. or other police officer referred to in Section 36 Cr.P.C. If despite approaching the Superintendent of Police or the officer referred to in Section 36 his grievance still persists, then he can approach a Magistrate under Section 156(3) Cr.P.C. instead of rushing to the High Court by way of a writ petition or a petition under Section 482 Cr.P.C. Moreover he has a further remedy of filing a criminal complaint under Section 200 Cr.P.C. Why then should writ petitions or Section 482 petitions be entertained when there are so many alternative remedies? 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 Cr.P.C. 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) Cr.P.C. before the Magistrate or by filing a criminal complaint under Section 200 Cr.P.C. and not by filing a writ petition or a petition under Section 482 Cr.P.C. 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.

Also in ***Dilawar Singh vs. State of Delhi JT 2007 (10) SC 585 (vide para 17)*** the Supreme Court held:

“We would further clarify that even if an FIR has been registered and even if the police has made the investigation, or is actually making the investigation, which the aggrieved person feels is not proper, such a person can approach the Magistrate under Section 156(3) Cr.P.C., and if the Magistrate is satisfied he can order a proper investigation and

*take other suitable steps and pass such order orders as he thinks necessary for ensuring a proper investigation. All these powers a Magistrate enjoys under Section 156(3) Cr.P.C. ”*

The court is conscious of the fact that it is the statutory obligation and duty of the police to investigate into the crime and the courts normally ought not to interfere and guide the investigation agency as to in what manner the investigation has to proceed, at this stage the court has no role to play.

Nonetheless, this Court cannot turn a blind eye to the broader principles of justice. Though the petition is being dismissed, the Investigating Authorities are reminded that they are guardians of constitutional values and thus, the investigation must proceed with fairness, neutrality, and transparency as held in **Sakiri Vasu (supra)**. Hence, the present petition does not warrant the invocation of powers under Section 528 of the BNSS, 2023, as alternative remedies are available to the petitioner.

Accordingly, this petition is liable to be dismissed being devoid of merits.

(SANDEEP MOUDGIL)  
JUDGE

28.07.2025  
anuradha (a)

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