



CRWP-7102-2025

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

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CRWP-7102-2025

Date of decision:07.07.2025

Mandeep Singh and others

...Petitioners

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tahaf Bains, Advocate for the petitioners
(Through Video Conference).

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Articles 226 of the Constitution of India, seeking issuance of direction to respondent No.2 to protect the life, liberty and property of the petitioners, which are under imminent threat from the private respondent Nos.4 to 7, who are allegedly issuing threats of physical harm to the petitioners and their family members and coercing petitioner No.1 to withdraw a complaint submitted to the higher authorities. Further prayer has been made to respondent Nos.2 and 3 to consider and decide the representation dated 01.07.2025 (Annexure P-3) moved by the petitioners and the complaint dated 12.06.2025 (Annexure P-2) in accordance with law at the earliest.

2. Learned counsel for the petitioners has iterated that the petitioners are entitled to protection under the Constitution of India, including the right to live peacefully. According to learned counsel, the petitioners are facing a grave and imminent threat to their life, liberty and property at the hands of private respondent Nos.4 to 7. It is further iterated



that after the demarcation proceedings were conducted, the private respondents alongwith 20-25 unidentified armed individuals opened fire with the clear intent to eliminate the petitioners. Despite the life threatening incident which occurred on 04.06.2025, no action has been taken by the Police even after a written complaint was promptly submitted by the petitioners. The inaction 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 petitioners are facing a real and imminent threat to their safety due to continuous harassment and open threats at the hands of private respondent(s). Furthermore, the petitioners 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.

3. I have heard learned counsel for the petitioners and have perused the paper-book.

4. The present petition has been preferred under Articles 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 the private respondents, are unlawfully interfering in the life of the petitioners further endangering their liberty and well being. The petitioners (herein) who claims that the private respondent(s) have extended threats to them, have chosen to invoke the inherent jurisdiction of this Court under Articles 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



petitioners, no such accentuating facts/circumstances have been brought forward by the petitioners which may warrant interference by this Court under Articles 226 of the Constitution of India. It is, thus, indubitable that said apprehension expressed on behalf of the petitioners is nothing but a bald assertion. Mere bald and unsubstantiated averments, devoid of cogent material, do not confer upon the petitioners 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.

5. The petitioners have averred to have moved a representation (Annexure P-3) and complaint (Annexure P-2) to the Senior Superintendent of Police, Patiala, whereof no action alleged to have been taken by the concerned authority. In case the petitioners are aggrieved by the commission of any offence against them, 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.”

5.1. It is a well-entrenched tenet of the constitutional jurisprudence that the extraordinary jurisdiction under Articles 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.

6. Accordingly, this Court does not find the present case a fit one for exercise of its jurisdiction under Articles 226/227 of the Constitution of India. *Ergo*, it is directed as under:

- (i) The petition in hand stands dismissed.
- (ii) Liberty is reserved in favour of the petitioners to avail alternative remedy(s), as per law. Needless to say that this Court has not delved into the merits of the *lis* and the same is left open to be adjudicated in appropriate proceedings, in case occasion so arises.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 07, 2025
Ajay

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