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

**CWP-24622-2025**

**Date of decision:-25.08.2025**

Akshay Kalra

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**

**Present** : Mr.Shivam Juneja, Advocate  
for the petitioner.

Mr. Deepak Vashisth, DAG, Haryana.

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**SUVIR SEHGAL, J.(ORAL)**

1. By way of present petition filed under Article 226 of the Constitution of India, petitioner has sought issuance of a writ in the nature of mandamus directing respondents to set the criminal law in motion against Ashwani Kumar for offences under Bhartiya Nyaya Sanhita (BNS), 2023 and thereby protect the fundamental rights of the petitioner. Another direction has been sought to the respondents to inquire into the inaction of the police officials posted at Sector – 5 and Sector- 9-A Police Stations, Gurugram and to initiate appropriate



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departmental proceedings against them.

2. Mr. Shivam Juneja, counsel for the petitioner submits that the petitioner entered into an agreement to sell dated 17.12.2024, Annexure P1, with Ashwani Kumar for purchase of residential house in Sector – 5, Gurugram for a consideration of Rs.6.43 crores. He submits that the petitioner paid an advance of Rs.4 lakhs, but it later transpired that the property was registered in the name of Mrs. Purnima Rohilla, mother of Ashwani Kumar, which was not disclosed to the petitioner. Counsel asserts that as petitioner had been defrauded, he filed a complaint dated 10.03.2025, Annexure P5, and he was informed that the complaint be given to police station at Sector 9-A, Gurugram. He submits that complaint dated 10.03.2025, Annexure P5, was sent by speed post to both the police stations. Another complaint dated 13.03.2025, Annexure P8, was given to the Commissioner of Police, Gurugram under Section 173(4) of BNSS, 2023, but respondents failed to lodge a criminal case. Placing reliance upon **Whirlpool Corporation Versus Registrar of Trade Marks, Mumbai, AIR 1999 SC 22**, counsel has contended that under Article 226 of the Constitution of India, power vested in the High Court is plenary in nature and can be exercised for not only issuing writs, but for any other purpose. Counsel for the petitioner urges that the availability of alternate remedy is not a bar to the entertainment of the writ petition by the High Court. Reference has also been made by him to **State of West Bengal and others Versus**



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*Committee for Protection of Democratic Rights, West Bengal and others, (2010) 3 SCC 571.*

3. I have heard counsel for the petitioner and considered his submissions.

4. Petitioner has sought initiation of criminal proceedings against Ashwani Kumar for playing fraud with him. Petitioner has submitted a complaint under Section 173 of BNSS, 2023. On the failure of the police authorities to act on his complaints, remedy available with the petitioner is not to invoke extra ordinary writ jurisdiction of this Court, but to file a complaint under Section 175 (3) of BNSS, 2023 before the competent Magistrate. A reference in this regard has been made to the judgments of the Hon'ble Supreme Court in *Sakiri Vasu Versus State of UP and others (2008) 2 SCC 409* and *M. Subramaniam and another Versus S. Janaki and another (2020) 16 SCC 728*. Judgments relied upon by counsel for petitioner do not advance his case.

5. In view thereof, instant writ petition is not maintainable and is dismissed as such.

6. Liberty is, however, granted to the petitioner to take recourse to the remedy available to him in accordance with law.

(SUVIR SEHGAL)  
JUDGE

25.08.2025  
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Whether reasoned/speaking : Yes/No  
Whether reportable : Yes/No