



CRM-M-64966-2024

1

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

CRM-M-64966-2024

Date of decision: 07.01.2025

Sukhchain Singh

...Petitioner

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ajay Bhardwaj, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as the 'BNSS, 2023') seeking directions to respondent Nos.2 and 3 to decide the representation dated 11.11.2024 (Annexure P-1) of the petitioner as also to protect the life and liberty of the petitioner at the hands of private respondents i.e. respondent No.4 to 16.

2. The brief facts of the case, as narrated in the present petition, are that on 01.11.2024 the private respondents i.e. respondents Nos.4 to 16 are causing disturbance in front of the house of the petitioner by firing shots in the air with a pistol. When the petitioner confronted them, they issued threats to him. Following the incident, the petitioner had lodged a complaint on 01.11.2024, after which the police took the tractor of the private respondents into its custody. However, no further measures/steps were taken by the Police to ensure the protection of the petitioner. It was further alleged

that three days later, the police had released the tractor of the private



respondents whereupon they again started causing disturbance outside the house of the petitioner and issued threats as also openly proclaiming that no one can take action against them. They further warned the petitioner that any further complaint(s) by him would meet the same outcome. Thereafter, the petitioner filed another complaint on 11.11.2024 which was sent via registered post to respondent Nos.2 and 3 (herein). However, no action has been taken till date. It was further alleged that upon learning of the second complaint made by the petitioner, the private respondents allegedly threatened the petitioner and warned him that any further complaint would lead to severe consequences including potential physical harm to him. 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. Instead the petitioner has been subjected to undue harassment, including being called to the police station and detained there for the entire day without any progress on the matter. The petitioner further alleged that the inaction of the police authorities has eroded public trust in the justice system. Furthermore, the private respondents have continued to subject the petitioner to mental harassment by taunting and threatened him to implicate him in a false case. Thus, the petitioner has been left with no alternative but seek intervention of this Court to direct the official respondents to take prompt and necessary action against the private respondents.

2.1. Learned counsel for the petitioner has iterated that the private respondents in connivance with each other are threatening the petitioner.

Learned counsel has further iterated that the Section 173(1) of the BNSS,



physical and emotional abuse, must be recorded by the Officer in charge of the Police Station. Despite the detailed representation dated 11.11.2024 (Annexure P-1) of the petitioner outlining serious offences such as threats to his life, the authorities have failed to fulfill their statutory obligations. It is further submitted that the private respondents are politically influential and headstrong individuals and openly question the effectiveness of the Police and threatened to implicate the petitioner in false case. Learned counsel has highlighted that under Section 173(4), if the Officer in charge fails to act, the petitioner has the right to escalate his complaint to the Superintendent of Police, who is statutorily obligated to investigate or direct an investigation upon disclosure of a cognizable offence. Furthermore, despite providing overwhelming evidence to the Police, no action has been taken against the private respondents, which raised suspicion about inertia of the police. Learned counsel has further argued that a direction be issued to the Police to provide protection to the petitioner as he is apprehending immediate danger to his life and liberty at the hands of the private respondents as also to direct the official respondents to comply with their statutory duties. Thus, the petitioner has been constrained to file the instant petition seeking the prayer(s) as indicated hereinabove.

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

4. 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. The prime prayer made in the petition is that despite clear evidence of serious offences, including creating ruckus outside his house, causing harassment and mental torture etc., the Police have failed to register an FIR and take appropriate legal action against the private respondents. The petitioner (herein) who claims himself to be a victim of harassment and

mental torture has chosen to invoke the inherent jurisdiction of this Court



under Section 528 of BNSS, 2023 without even referring to, much less disclosing any impediment being faced by him in approaching the concerned Illaqa/Jurisdictional Magistrate by invoking Section 175 of BNSS, 2023. In the considered opinion of this Court, the petitioner ought to have approached the concerned Illaqa/Jurisdictional Magistrate in the first instance who is well empowered to grant the substantial relief(s) sought for in the present petition. No such accentuating facts/circumstances have been brought forward by the petitioner which may warrant interference by this Court under Section 528 of BNSS, 2023. Accordingly, this Court does not find the present case a fit one for exercise of its jurisdiction under Section 528 of BNSS, 2023.

6. The prayer that next requires to be addressed is to provide protection to the petitioner as he is apprehending danger to his life and liberty at the hands of private respondents. In the considered opinion of this Court, the allegations of repeated physical assault, mental harassment or degrading treatment that endangers the well being of the petitioner are without any cogent and credible evidence to substantiate such claims. The jurisdiction conferred upon this Court under Section 528 of the BNSS is of an extraordinary and discretionary character, necessitating careful and judicious invocation. It is a trite principle of law that such jurisdiction is not to be exercised in routine or perfunctory matters, but solely in circumstances that unequivocally warrant the intervention of the Court to prevent manifest injustice or irreparable harm. The Court, in the exercise of its extraordinary powers, is not a forum for speculative grievances or unsubstantiated



seeking directions for protection, are insufficient to compel the Court to intervene. The petitioner bears a fundamental and onerous obligation to substantiate their allegations with cogent, credible, and prima facie evidence that demonstrates a real and immediate threat or an act of injustice requiring redress. It would be appropriate to refer herein to an age old adage:

“Judicial judgment must be informed and guided by the evidence on record; speculation or surmises has no place in the Court of Law”

It is well-settled that the extraordinary jurisdiction of the Court is intended to supplement, not supplant, the ordinary remedies available under the general law. This jurisdiction is inherently constrained by the principles of judicial propriety and is invoked only where there exists no efficacious alternative remedy, or where failure to act would result in the miscarriage of justice. Absent sufficient material or evidentiary basis, the Court cannot be compelled to act merely on the asking of a petitioner. To do so would undermine the very sanctity and purpose of its extraordinary jurisdiction, reducing it to a mechanism for frivolous or unwarranted claims. In the present case, the lack of substantive evidence negates any justification for the exercise of such powers, and the Court finds no occasion to intervene in the absence of a clear and compelling case.

7. Accordingly, the instant petition filed under Section 528 of BNSS, 2023 stands dismissed. Needless to state herein that this Court has not delved into the merits of the matter and the same is left open to be considered in appropriate proceedings, if so initiated. There is no gainsaying that the petitioner, if so advised, will be at liberty to file an appropriate



petition, *inter alia*, under Section 175 of BNSS, 2023 for redressal of his grievance(s), in accordance with law.

8. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

January 07, 2025
Ajay

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