

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-14944-2013

Date of decision: 23.07.2015

**Roop Chand**

... Petitioner

**Vs.**

**State of Haryana and ors.**

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. S.S. Momi, Advocate  
for the petitioner.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment? YES/NO
2. To be referred to the reporters or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

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**RAMESHWAR SINGH MALIK, J.**

Petitioner, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), seeks directions against the respondent-State, to hand over the investigation of the case bearing FIR No.71 dated 02.04.2013 under Section 363, 366A of the Indian Penal Code ('IPC' for short), registered at Police Station Ferozepur Jhirka, District Mewat, to some independent agency like CBI/Crime Branch.

Notice of motion was issued and pursuant thereto, reply by way of affidavit dated 14.09.2013 was filed. Thereafter, report under Section 173 Cr.P.C. was also placed on record.

Learned counsel for the petitioner submits that the investigating

agency has not conducted a proper and effective investigation in the present case. Petitioner is not satisfied with the investigation conducted by the investigating agency. He submits that some of the accused named by the complainant-petitioner have been exonerated during the investigation, whereas some other persons who were not connected with the crime, had been made accused. He further submits that in such a situation, petitioner was left with no other option but to approach this Court by way of instant petition. In support of his contentions, learned counsel for the petitioner places reliance on judgments of the Hon'ble Supreme Court in **Vipul Shital Prasad Agarwal Vs. State of Gujarat and another, 2013 (1) RCR (CrI.) 5**, **Babubhai Jamnadas Patel Vs. State of Gujarat and others, 2009 (9) SCC 610**, **Bharati Tamang Vs. Union of India and others, 2014 (3) RCR (CrI.) 347** and a Division Bench judgment of this Court in **Manjeet Singh Vs. State of Punjab and others, 2004 (4) RCR (CrI.) 229**. Learned counsel for the petitioner also places reliance on the statement of the prosecutrix recorded under Section 164 Cr.P.C., which is placed on record by the respondents with their reply as Annexure R-1. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Rajender Singh, Police Station Ferozepur Jhirka, District Mewat, submits that a fair and effective investigation was conducted. Even without making any specific request on behalf of the petitioner for adding the offence under Section 376 IPC, the said offence was added in the FIR by the investigating agency itself. It shows that the investigation was being conducted without any bias in favour or against anybody. He further submits that after conclusion of the effective investigation, police report under Section

173 Cr.P.C. has already been presented to the learned Court of competent jurisdiction. Thereafter, charge has also been framed and the learned trial Court is seized of the matter. Learned counsel for the State would next contend that once the report under Section 173 Cr.P.C. has already been presented to the learned Court of competent jurisdiction, no further orders are called for in the present petition and the same may be disposed of as such.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, no further orders are called for, at the hands of this Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C. To say so, reasons are more than one, which are being recorded hereinafter.

After hearing the learned counsel for the parties and going through the averments taken on behalf of both the parties, it has been found that the investigating agency has conducted a fair and effective investigation, without any ill-will or bias either in favour or against anybody. One of the accused namely Mangal Singh, named by the petitioner has also been challaned. Learned counsel for the State pointed out that Mangal Singh-accused moved an application for getting himself declared as juvenile and the same was accepted by the learned Court. He has been declared juvenile and the learned Court of competent jurisdiction shall conduct his trial separately.

Learned counsel for the State has also been found justified in contending that without there being any specific request having been made by the complainant-petitioner, it was the investigating agency itself who

added the offence under Section 376 IPC, during the course of investigation. This further goes to show that the investigation was being conducted without any bias. Having said that, this Court feels no hesitation to conclude that no case for transfer of investigation has been made out.

So far as the judgments relied upon by learned counsel for the petitioner are concerned, there is no dispute about the law laid down therein. However, on close perusal of the cited judgments, none of them have been found of any help to the petitioner, being distinguishable on facts. It is the settled proposition of law that peculiar facts and circumstances of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533**.

It is not the case of the petitioner that the investigating officer or any other police officer, who might have been associated with the investigation, was feeling inimical to him. Until and unless, there is sufficient material placed on record to raise serious doubt against the investigating agency, it would not be appropriate for this Court to draw inferences in favour of the petitioner and against the investigating agency. It is so said because drawing such an inference without there being any sufficient material, would serve no purpose and such an inference would also violate the law laid down by the Hon'ble Supreme Court in number of judgments, reiterating the view taken by the Privy Council in **Emperor Vs. Khwaja Nazir Ahmad AIR 1945 PC 18**. Under these circumstances, it can be safely concluded that the

investigating agency in the present case, committed no error of law while preparing the report under Section 173 Cr.P.C., which has already been presented to the learned Court of competent jurisdiction.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present petition stands dismissed, however, with no order as to costs.

**[ RAMESHWAR SINGH MALIK ]**  
**JUDGE**

23.07.2015  
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