

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

CRM-M-25213-2014
Date of Decision: January, 16, 2015

Sudarshan Lal Arora

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Mohinder Kumar, Advocate
for the petitioner .

Mr.K.S.Pannu, DAG, Punjab.

Mr.H.S.Dhindsa, Advocate
for respondent No.4.

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Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition under Section 482 of Cr.P.C. is for directions for re-investigation of the case arising out of FIR No.47 dated 11.04.2014, for the offences punishable under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act'), Section 294 IPC and Section 67 of Information & Technology Act, registered at Police Station, Daba, District Ludhiana.

Learned counsel for the petitioner submits that the statement of the prosecutrix in terms of Section 164 Cr.P.C. was not recorded as per the provisions in POCSO Act and when she suffered the statement before the Court of Session, she was

under the pressure of the accused. He further contends that the police had not investigated the case fairly, therefore, the said fact could not be placed before the Court below. He further contends that even the Investigating Officer i.e. Inspector Sarabjit Singh, who had conducted the investigation, has not been cited as witness in the array of the witnesses. He further contends that even the medico-legal examination of the prosecutrix was against the provisions of the POCSO Act.

Learned counsel for the State, on instructions from ASI Tarsem Singh of Police Station Daba, District Ludhiana, submits that the prosecutrix had not only given a clean chit to the accused at the time of her statement recorded under Section 164 Cr.P.C. but even at the time of trial before Sessions Judge, she had not supported the case put up by the complainant. He further contends that, in fact, the prosecutrix had stated before the Magistrate in her statement under Section 164 Cr.P.C. that her parents were not only beating her but even tied her with a rope. He further contends that the matter was thoroughly investigated and the petitioner had made it an issue to harass the investigating agency since his daughter is not under his control.

Learned counsel for respondent No.4 also toed the arguments submitted by learned counsel for the State.

I have heard the learned counsel for the parties and with their able assistance, have gone through the material available on record.

The trial of the case is going on. Anything expressed by this Court on merits of the case may prejudice either party at this stage. However, it is obvious that during her statement under Section 164 Cr.P.C. recorded on 28.05.2014, she had not alleged anything against the accused. Even after commitment of the case and during the trial, she appeared before the learned Sessions Judge on 04.11.2014 and totally denied the version as put up by the complainant and submitted that she was never sexually harassed by the accused facing the trial.

In view of the above circumstances, no ground for issuance of directions while exercising the jurisdiction under Section 482 Cr.P.C. is made out for further investigation or re-investigation. However, the petitioner is relegated to convince the trial Court in accordance with law to pass the appropriate orders in that regard, if so advised.

Finding no merit in the petition, the same is hereby dismissed.

(NARESH KUMAR SANGHI)
JUDGE

January 16, 2015
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