

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-31313 of 2012

Date of decision : May 19, 2015

Sanjeev @ Sanju

... Petitioner

vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.K. Malik, Advocate
for the petitioner.

Mr. P.S. Sullar, Addl. A.G. Haryana.

Surinder Gupta, J

The FIR No.148 dated 31.10.2009 for offence punishable under Sections 365/376/506/511 IPC was registered at Police Station Kalayat, District Kaithal, on the statement of respondent No.2 recorded under Section 164 Cr.P.C. by Judicial Magistrate Ist Class, Kaithal, wherein she has stated that on the day of occurrence, she had gone to Narwana to see her ailing father living at village Barsola, District Jind. At Narwana, Vinod, Sajni, Poonam, Sanju, Kulbir and Sukhwinder forcibly took her in a vehicle and brought her to Chandigarh and entrusted her to some unknown person. Sukhwinder, Kulbir and Vinod also attempted to commit rape upon her. They also threatened to implicate her family members in a false case. She filed a case at Chandigarh under their pressure.

Learned counsel for petitioner submits that after investigation, the police presented the challan wherein Sanjeev @ Sanju was kept in column No.2 as he was found innocent. After framing of charge, the court recorded statement of Jagbir PW1, who did not support the case of prosecutrix, Kaushalya PW-2 mother and Suresh PW-3, earlier husband of the prosecutrix also did not support her case. While appearing as PW-5 the prosecutrix named the petitioner along with Kulbir Singh son of Sahi Ram and one Kuldeep amongst the persons who were present at the bus stand of Narwana and forcibly took her in a Tata Sumo vehicle.

On the above statement of prosecutrix the trial court vide order dated 20.9.2011 allowed the application of the prosecution under Section 319 Cr.P.C. and summoned the petitioner along with Kuldeep Singh son of Sahi Ram. He has referred to the petition (Annexure P1) CRM-M- 25709 of 2009 filed by respondent No.2 seeking protection to her life and liberty. This petition was filed on 11.9.2009 against the previous husband, in-laws, parents and other relatives of respondent No.2. The petition was disposed of vide order dated 14.9.2009 with the direction to Superintendent of Police, Kaithal to examine her representation. A missing report was got recorded by Suresh at Police Station Kalayat (Annexure P2). Thereafter the parents of respondent No.2 moved criminal miscellaneous application No. 5076 of 2009 in CRM-M-25709 of 2009 before this Court seeking direction to respondents No.1 to 3 in that case i.e. police of Kaithal and Panchkula not to harass them under the garb of order dated 14.9.2009. He further argued that Kulbir, who had been attributed similar role by the prosecutrix regarding his presence and taking her away in a vehicle, also challenged the summoning order in Criminal Revision No.652 of 2012 (O&M) and vide order dated 30.7.2012 that petition was allowed and the order dated 2.9.2011 passed by the trial court was set aside.

It has been candidly admitted by the learned counsel representing the private respondents and learned State counsel that role of the petitioner as alleged by the respondent No.2 in the incident is similar to that of Kulbir Singh.

Taking into account the totality of the facts and circumstances discussed above and particularly that the summoning order qua Kulbir Singh, who was also summoned while allowing prosecution application under Section 319 Cr.P.C. has been set side, this petition is allowed and the impugned order is set aside.

(Surinder Gupta)
Judge

May 19, 2015
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