

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

**Criminal Misc. No. M-43252 of 2013
Date of Decision: 13.07.2015**

Tilak Raj

...Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- None for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA J.(Oral)

Since no one put in appearance on behalf of petitioner on 8.8.2014, 21.8.2014, 18.12.2014 and 30.3.2015, this Court passed following order on 30.3.2015:-

“Previous order shows that no one had put in appearance on behalf of petitioner. Learned State counsel submits that the petitioner is the husband of the prosecutrix namely Sharda Devi and they have already been granted divorce and the police has filed untraced report in the matter to the effect that the prosecutrix was never raped by her husband.

Adjourned to 13.7.2015.

The Registry is directed to inform learned counsel for the petitioner about the adjourned date.”

Registry has reported that Mr. RPS Brar, Advocate, who had put in appearance on behalf of the petitioner on 26.5.2014, has already been informed about the adjourned date. However, still no one is present on behalf of the petitioner.

Prayer in this petition is for a direction to the respondents to take appropriate steps to proceed with the investigation in the matter pursuant to order dated 31.5.2012 passed by this Court in CRM-M-16676 of 2012. The aforesaid order dated 31.5.2012 passed in CRM-M-16676 of 2012 reads as under:-

“Crl.Misc.No.M-16676 of 2012:

Feeling aggrieved against the alleged ineffective investigation at the hands of investigating agency, the petitioner has approached this court by way of instant petition under Section 482 Cr.P.C., invoking the inherent jurisdiction of this court, seeking direction against the official respondents to carry out the proper investigation.

Learned counsel for the petitioner submits that the petitioner has been running from pillar to post, but his grievance was not being redressed. Having been left with no other option, the petitioner approached the Senior Superintendent of Police, Gurdaspur-respondent no.2 by way of his self contained representation dated 26.4.2012 (Annexure P-3), but that is also still pending undecided. He further submits that the petitioner would be satisfied, in case respondent no.2 is directed to look into the matter and pass an appropriate order on the representation made by the petitioner vide Annexure P-3.

Having heard the learned counsel for the petitioner and to secure the ends of justice, Senior Superintendent

of Police, Gurdaspur-respondent no.2 is directed to consider the grievance of the petitioner, which prima facie seems to be genuine raised by his representation dated 26.4.2012 (Annexure P-3), dispassionately and expeditiously, by taking appropriate action thereon, in accordance with law.

With the observations made above, the instant petition is disposed of.”

Pursuant to order dated 31.5.2012, the Senior Superintendent of Police, Gurdaspur has passed an order, whereby the SHO, Police Station, Behrampur has been directed to reinvestigate the case as per law. Reply by way of affidavit of Kuldeep Singh, PPS, DSP, R-II, Gurdaspur, on behalf of respondents no.1 to 3, has been filed, which is already on record. Para of 2 of the preliminary submissions of the aforesaid affidavit reads as under:-

“2. That a case FIR No.4 dated 12.03.2011 under section 376/452/506/34 IPC Police Station Behrampur has been registered against Sarwan Singh @ Sabi s/o Kunan Singh r/o Village Bharath Kajit Chack, Kailash Mehra @ Kailash s/o Kasturi Lal r/o Village Balor, Satish Kumar s/o Banarsi Dass r/o Village Bharath Kaji Chack on the statement of Sharda Devi i.e. wife of the petitioner. During the investigation, the complainant Sharda Devi got recorded her statement under section 164 Cr.P.C. In the learned Court. As per the statement of complainant the untraced report has been prepared by SHO Police Station Behrampur on

31.08.2011 and submitted in the competent Court on 10.09.2011. The learned court passed the order dated 10.09.2011 that "Statement of the complainant recorded today, vide which she stated that she agreed with the cancellation report as she has no objection, if the cancellation report is accepted. But this court is not satisfied with the cancellation /untraced report moved by the investigating agency. The offence is under section 376 IPC and serious in nature, which requires further investigation. Thus, I do not find the investigation to be satisfactory and deem it appropriate in directing the prosecution to further investigate the case. Hence, the cancellation/ untrace report is not accepted and cancellation report is sent back sent back with the direction to further investigate the matter. The judicial papers be consigned to the judicial Record Room and cancellation report is sent back to the concerned Police Station for re-investigation of the case."

Learned State counsel submits that the matter has been reinvestigated and after reinvestigation, the untraced report has been again prepared by the SHO, P.S. Behrampur on 18.12.2013.

In view of the above, no further order is called in the present petition and the same is disposed of accordingly.

July 13, 2015
AK

(HARI PAL VERMA)
JUDGE