

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM No. M-41810 of 2014

Date of decision: 05.02.2015

Jagjit Kumar

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr. Amit Shukla, Advocate for the petitioner
Mr.Nikhil K. Chopra, DAG Punjab

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner has filed this petition for issuing directions to official respondent Nos.1 to 4 not to harass his family members and further direction to arrest respondent No.5 in FIR No.42 dated 2.9.2014 under Section 354A IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 with a further request that any other order which the Court may deem fit may be passed.

Suffice to say that the prosecutrix, aged about 12 years, who is studying in 7th standard in Government Model School, Sector 2, Talwara, had stated that on 23.8.2014 at about 8.30 a.m., she went to meet her younger sister in her classroom, where Varinder Kumar, Maths teacher caught hold of her and indulged in obscene acts. In the evening, she brought the matter to the notice of her

mother and father.

Said respondent No.5 Varinder Kumar had approached this Court for grant of anticipatory bail and the same was declined.

Today reply has been filed by Shri Dhruv Dhैया, IPS, Asstt. Superintendent of Police, Sub Division Dasuya, District Hoshiarpur, in which it is stated that inquiry has been conducted and it has been found that the FIR was got falsely registered. Therefore, cancellation of FIR has been recommended. The copy of the inquiry report has also been placed on file.

Learned counsel for the petitioner has argued that in this case father of the respondent No.5 had retired as a police officer from the same police station where the case is registered and that the police has been influenced. The inquiry report shows that in this case statement of the prosecutrix was recorded, who supported the case. The Headmaster of the School stated that he had not received any such complaint and inquiry was also made from the students of 5th class 'in the presence of his teacher'. Therefore, it is not expected that the students will speak against one of their teachers in the presence of other teachers. Apparently, no honest inquiry has been made and the case is being hushed up despite the fact that the prosecutrix and her father are supporting the case. No motive is attributed to the prosecutrix for levelling false allegations.

In such circumstances, I am of the firm opinion that honest and fair inquiry is not possible at Police Station Talwara. Therefore, the investigation of FIR No.42 dated 2.9.2014 under Section 354A IPC and Section 4 of the Protection of Children from

Sexual Offences Act, 2012 is withdrawn from the Police Station Talwara and the same is entrusted to Crime Branch, Punjab. I.G.P. Crime is directed to depute an experienced officer to enquire into the matter and submit final report to concerned Court in accordance with law. Talwara police is restrained from submitting any report to the Court on the basis of the said inquiry report, as discussed above.

Petition is accordingly allowed.

05.02.2015*gk***(Kuldip Singh)
Judge**