

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

**Crl. Misc. No. M-11397 of 2016
Date of decision : 14.09.2016**

Gulshana

.....Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. G.C. Shahpuri , Advocate
for the petitioner

Mr. D.R. Singla, DAG, Haryana

Mr. Abhishek Sethi, Advocate
for respondent Nos. 7 to 10

RITU BAHRI, J.

The present petition is for issuance of direction to the respondents to conduct a fair and proper re-investigation in F.I.R No. 51 dated 09.02.2016 under Sections 498-A/406/323/506 IPC and Sections 313/376 (deleted by the Investigation Officer), registered at P.S Farakpur, District Yamuna Nagar and further prayer is for transfer of investigation to some senior rank official of the Crime Branch or any other senior rank officer.

Petitioner got married with accused Imran on 07.10.2015 as per Muslim custom and ceremonies. The parents of the petitioner gave sufficient dowry articles to the accused persons. But in-laws of the petitioner started harassing her on account of bringing less dowry and

started raising demand of dowry. On 04.01.2016, when the petitioner was alone in the house, respondent No. 7 who was having evil eye upon the petitioner entered in her room and committed rape upon her wishes and the petitioner told the entire story to her husband, but her husband and in-laws started giving beating to the petitioner and locked her in a room. Further, they have got aborted the pregnancy of the petitioner. On 09.02.2016, the above mentioned F.I.R was got registered against the accused persons under Sections 498-A/406/323/506/313/376 IPC. The investigation of the present case was handed over to respondent No. 4 and thereafter, the medical examination of the petitioner was got conducted by her in civil hospital. On 10.02.2016, petitioner was produced before the Illaqa Magistrate for recording of her statement, in which she reiterated all the allegations which have been mentioned in the F.I.R. However, the investigation of the present case was thus transferred to ASI Dal Singh, due to the influence of accused persons in order to shield them, who after conducted investigation, deleted Sections 313/376 IPC.

The grievance of the petitioner before this Court is that once the investigation was being carried out by the senior official i.e respondent No. 4 L/SI Kusum Bala, thereafter, it can't be transferred to the official who was lower in rank, more particularly when the investigation of the case was being carried out by the Women Police Officer. Further, it has been stated that the Investigation Officer has wrongly discarded the allegations made in the F.I.R and the statements under Section 161 Cr.P.C of the petitioner as well as of other witnesses, which were got recorded by earlier Investigating Officer.

On notice, a reply has been filed by respondent Nos. 1 to 3 stating therein that initially the investigation was carried out by respondent No. 4 which was further transferred to respondent No. 5 ASI Dal Singh, who reached at the house of the petitioner where the petitioner, her father, her mother, Khurshid, Guljari, Hussani were met, who joined in the investigation and were inquired about the incident. On the same day, respondent No. 5 went to Nawab Colony, Camp, Yamuna Nagar in search of respondent Nos. 6 to 9 but despite search, they did not meet. However, some persons namely Mohd. Islam, Irfan, Mahavir, Amit Tarun, Parmod Kumar, Depa, Maya and Kasifa met him and they were joined in the investigation. Irfan stated that respondent No. 7 Usman used to visit him and on 04.01.2016, he came to him at about 10 A.M and remained till 7 P.M with him as such the allegation of rape by the petitioner is absolutely wrong. In this regard, Irfan has given an affidavit and other persons have also stated jointly that on 04.01.2016, Faruk, Irman, Babli were working at the brick kiln at Dudhla. After that many panchayats were convened but in the panchayat, petitioner never stated any alleged occurrence of rape occurred with her, as such the F.I.R was found to be absolutely false and baseless. In support of their contentions, the above named persons have also furnished their affidavits, which were duly verified by ASI Dal Singh. During investigation, the petitioner has also not placed any medical from which it could be proved that the abortion of the petitioner was ever done. ASI Dal Singh produced all the persons before Inspector/SHO P.S Farakpur, who verified the circumstances and after verifying the circumstances, Sections 313/376 IPC were deleted. On 17.02.2016, respondent No. 6 was arrested

and respondent Nos. 8 and 9 were formally arrested as they were on anticipatory bail and respondent No. 7 was formally arrested and was released on police bail.

Learned State counsel, on instructions from the Investigating Officer has informed the challan in the present case was presented on 10.02.2016 and the matter is now fixed for framing of charges on 18.09.2016.

Learned State counsel has further showed the medical examination report of the petitioner wherein doctor has observed that there are no external injury marks on the body of the petitioner and further stated that the possibility of sexual assault cannot be ruled out.

After going through the contents of the petition and the reply filed by the petitioner, this petition deserves to be dismissed, as firstly after the matter was investigated by ASI Dal Singh, various panchayats were convened and the petitioner has also not placed any medical from which it could be proved that the abortion of the petitioner was ever done. Further in the panchayats, petitioner never stated any alleged occurrence of rape occurred with her. In the affidavit given by Irfan, he clearly stated that on 04.01.2016, respondent No. 7-USman was with him till 7 P.M. In the medical examination report also, no external injury was found on the body of the petitioner. Only doctor has observed that the possibility of sexual assault cannot be ruled out.

One thing which is not in dispute that there is no evidence with regard to the fact that abortion of the petitioner was ever done by the accused persons and further in the panchayats, petitioner has not stated even

a single word about the commission of rape by accused-Usman. As per affidavit given by Irfan, Usman was with him on 04.01.2016 till 7 P.M. Thus, the investigation carried out by ASI Dal Singh, which was further approved by SHO/Inspector, does not suffer from any infirmity and no ground is made out to transfer the investigation to some senior rank official.

Keeping in view the above fact, the present petition stands dismissed.

14.09.2016
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>