

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

CRM-M No. 11423 of 2016 (O & M)

Date of decision : 27.9.2016

Jitesh Malhotra

.....Petitioner

v.

State of Haryana

.....Respondent

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Rajesh Lamba, Advocate, for the petitioner

Mr. Anmol Malik, AAG, Haryana

Ritu Bahri, J. (Oral)

The petitioner is seeking modification of the order dated 9.2.2016 (Annexure P-5) dismissing anticipatory bail of Pranshu Goyal and cost of ₹ 25,000/-was imposed upon the petitioner, who was the Investigating officer of the case. Further, an observation has also been made that after recording the statement of the prosecutrix under Section 164 Cr.P.C., the petitioner was found careless and negligent in conducting the investigation and the costs deposited shall be recovered by the Office of Commissioner of Police, Faridabad, from the petitioner if he is found responsible.

Learned State counsel has not been able to dispute the fact that challan in the case was prepared on 21.1.2016 and submitted on 2.2.2016 under Sections 3/4/6 of the Dowry Prohibition Act. In Para 4 of the reply it has been further explained that statement of the victim was recorded on 3.12.2015 under Section 164 Cr.P.C, Later on, she resiled from her previous statement recorded before the police and thereafter, location of phone of the complainant was found from Sector 21, Faridabad, whereas location of phone of the accused was found

at Shankar Vihar, New Delhi. The respondents have also placed on record an application moved on 21.12.2015 before the police (Annexure P-2). There is no allegation of rape against the petitioner in this complaint.

Keeping in view the above fact, the offence under Sections 376 and 363 IPC was rightly deleted at the time of presentation of challan which was presented on 21.1.2016. The anticipatory bail was dismissed on 9.4.2016 and thereafter, the petitioner approached this Court in FIR No. 558 of 2015 (Annexure P-6) and vide order dated 23.2.2016 he was granted regular bail keeping in view the deletion of Sections 376 and 323 IPC from the FIR.

It has been further observed that the marriage could not be matured after engagement and FIR has been registered in this background. Moreover, as per the orders passed by this Court in CRM-M No. 8030 of 2016 (Anexure R-1), the FIR was quashed on the basis of compromise where the complainant gave an affidavit that the allegations of rape was due to misunderstanding.

After hearing learned counsel for the parties and going through the contents of the petition and reply, this Court is of the considered view that once the challan has been presented and after deleting the offences under Sections 376 and 323 IPC, no allegation of careless and negligence remains against the petitioner. Accordingly, the petition is allowed. The observations made in the order dated 9.2.2016 (Annexure P-5) against the petitioner are deleted including the costs.

(RITU BAHRI)
JUDGE

27.9.2016
Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No