

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-19665 of 2016

Date of decision : 01.09.2016

Harjinder Kaur

..... Petitioner

versus

State of Punjab

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: Mr. Chandan Singh Rana, Advocate
for the petitioner**

ANITA CHAUDHRY, J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 18.05.2016 passed by JMIC, Ludhiana vide which the Magistrate had refused to record the statement again under Section 164 Cr.P.C.

I have heard learned counsel for the petitioner at length and have gone through the documents. The mother of the petitioner had lodged a complaint with the police on 13.04.2016, her daughter a Post Graduate was taken away by her uncle's son. Two unknown persons were also assisting him. Allegations were levelled that she had been taken with an intention to marry. The girl was major. She had got engaged on 26.03.2016. She returned the next day. She was produced before the Magistrate and her statement under Section 164 Cr.P.C. was recorded. Copy of the statement has not been placed on record. The counsel submits that the petitioner had made a statement in favour of the boy namely Harwinder Singh @ Ravi.

Learned counsel for the petitioner submits that they had applied for copy of the statement but that was declined on 18.05.2016. The counsel refers to Annexure P-7.

An application (Annexure P-6) was filed in the petition and the submission of the counsel is that the statement given before the Magistrate was

made when she was not in a conscious mind and the real uncle of the prosecutrix had forced her to make a statement in favour of their family and therefore, she had given a statement but now the accused and his family had started threatening the applicant and she wants to make statement again to the Court. The counsel states that a complaint was given to the police (Annexure P-5) for conducting the investigation in the FIR lodged by the mother.

The counsel cites *Pushpa Sharma vs. State of Rajasthan, 2000(1) RLW 13, Md. Nezam vs. State of Bihar, 1996(1) Crimes 299, Asma Bano @ Smt. Bandana vs. State of U.P. and others, 2005 (Sup) ACrC 118* and *Makhan Singh and another vs. State of M.P., 2011(8) RCR(Criminal) 3037* and urges that there is no bar to the Magistrate to record the statement.

The Magistrate has the discretion to record the statement under Section 164 Cr.P.C. depending upon the facts and circumstances of each case. The victim is a Post Graduate and major. The mother had lodged FIR and had levelled allegations against the persons who had enticed her daughter but the girl had made a statement and she now wants to wriggle out of the same. The reason for making the second statement is that threat was given. The petitioner did not lodge any complaint regarding the threat nor told the Magistrate about the threat.

I find no merit in the petition and the same is dismissed.

September 01, 2016
reena

(ANITA CHAUDHRY)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No