

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M No. 18829 of 2015

Date of decision : October 18, 2016

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Alka Masih

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Viren Jain, Advocate for the petitioner.

Mr. APS Gill, AAG, Punjab.

Mr. H.S Dhindsa, Advocate for respondent no.6.

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RITU BAHRI, J.

By way of filing this petition, the petitioner is seeking directions to respondents no. 2 to 5 to take appropriate action on the basis of the written complaint and representation (Annexures P-4 & P-5) disclosing cognizable offences under Sections 376, 420, 325, 493 and 506 IPC.

Briefly stated, the facts of the case in hand are that respondent no.6 is doing the business of Ayurvedic medicines through several firms/companies as Proprietor/partner/Director. One of the names of such Companies is 'S.P Treatment Centre' which runs a medical clinic at Jalandhar. Another such entity is a company by the name of Sagar

Ayurvedic Centre Pvt. Ltd. Having registered office at Shop No. 23/4431, Street No.1, Narinder Nagar near Samrala Byepass Chowk, Ludhiana. Petitioner had met respondent no.6 in the year 2012 when she was working as a Marketing Executive with a broadcasting Television Channel named 'Channel No.2'. They came close to each other and became friends. Thereafter, he offered her a job in his Company with a salary package of Rs.30,000/- per month. The petitioner accepted the said offer and joined the job in his Company. In this manner, respondent no.6 gained the confidence of the petitioner and thereafter proposed to marry her. At that time he told her that he had taken a divorce from his earlier wife, Sukhwinder Kaur. They started cohabiting as husband and wife at the house of respondent no.6 at Gardhiwala, District Hoshiarpur. Photographs showing that the petitioner and respondent no.6 were living as husband and wife are annexed with the petition as Annexure P-1. She gave birth to a male child named 'Sidharath Sagar' on 10.10.2013. The name of respondent no.6, Sarabjit Sagar has been recorded in the birth certificate of the child (Annexure P-2) as his father. After sometime of the marriage, petitioner discovered that respondent no.6 was a drug addict, alcoholic and a chain smoker and moreover a morally depraved person. She came to know that respondent no.6 was earlier married to a girl named 'Pukar' and had been conning innocent girls. When the petitioner confronted respondent no.6 with the above said facts regarding his marriage with Pukar, he inflicted severe beatings upon the petitioner and warned her of dire consequences. The medical proof with regard to the physical injuries is Annexure P-3. She made written complaint (Annexure P-4) in this regard to the Commissioner of Police, Ludhiana. She submitted another representation dated 11.2.2015

(Annexure P-5) addressed to the DGP, Punjab and sent copies of the same to the S.S.P., Hoshiarpur and S.H.O of the concerned Police station at Hoshiarpur. But, as no action was taken by the police officials, hence the present writ petition was filed.

On notice, a reply has been filed by the Deputy Superintendent of Police, Sub Division Tanda, Distt. Hoshiarpur on behalf of respondents no. 1, 4 and 5. As per the reply Sukhamrit Pal Singh, DSP (Investigation) called the petitioner to join the enquiry and the petitioner appeared and gave in writing that she wants to get the enquiry of the application from ACP Central Ludhiana and the previous application submitted by her is being enquired into by ACP Central Ludhiana as she is unable to come to Hoshiarpur. Therefore, the DSP (Investigation) Hoshiarpur recommended to file the application and sent the enquiry report along with papers to SSP Hoshiarpur for further action. The SSP, Hoshiarpur after going through the enquiry report ordered to file the above said application of the petitioner keeping in view the pending enquiry at Ludhiana. The report of the DSP (H) Hoshiarpur dated 16.3.2015 on the statement of the petitioner is Annexure R-1. Thereafter vide letter dated 16.5.2015 issued by the SSP, Hoshiarpur i.e respondent no.4 to commissioner of Police, Ludhiana i.e respondent no.2 on the statement of the petitioner and as per her desire since the similar enquiry was already pending at Ludhiana pursuant to her earlier complaint, the same was sent by SSP, Hoshiarpur/respondent no.4 to respondent no.2 vide Annexure R-2.

A separate reply has been filed by Assistant Commissioner of Police (Central) Ludhiana on behalf of respondents no. 2 and 3. As per the reply, during enquiry it was revealed that the mother and sister of the

present petitioner were demanding Rs. 40,00,000/- from respondent no.6 for settling their land dispute which he refused and thus on the instigation of her mother and sister, the petitioner started quarrels with respondent no.6 in his house and ultimately on 8.12.2014, she left the house of respondent no.6. A criminal complaint dated 12.11.2014 (Annexure P-4) was also filed by the petitioner with the police. Even prior to this on 2.11.2014, she had left the house of respondent no.6 and came back on 15.11.2014. No offence was made out against respondent no.6. The enquiry report of SHO was further examined and was verified by the ACP (Central) Ludhiana. Thereafter, opinion of DA (Legal) was also obtained who opined that no offence was made out and as such the said complaint (Annexure P-4) filed by the petitioner was consigned to the Record Room. In this reply, in paragraph 3 it has been stated that no marriage as alleged was ever performed between respondent no. 6 and said Pukar and he only had an affair with her. As regards Sukhwinder Kaur, previous wife of respondent no. 6, divorce had been duly granted on 19.3.2010 by the Court of Additional Civil Judge (Senior Division), Dasuya. After conducting a detailed enquiry, the allegations of the petitioner had been found to be false. The petitioner was 27-28 years of age and fell in love with respondent no.6 and after marriage when they did not pull along, they started levelling false allegations.

In the reply filed on behalf of respondent no.6, he admitted that they were living together and a male child namely Sidharth was born to them on 10.10.2013 at Hoshiarpura who was given surname of respondent no.6. Elder sister of the petitioner namely Shabnam and her mother demanded Rs.40,00,000/- from respondent for settlement of their civil

litigation but on refusal they started instigating the petitioner to create differences between them. Petitioner left respondent no.6 and went to house of her mother at Ludhiana on 2.11.2014 without consent of respondent and came back to Garhdiwala on 15.11.2014. A criminal complaint dated 12.11.2014 (Annexure P-4) was also filed by the petitioner with the police. Eventually on 8.12.2014, she left the house of respondent no.6.

I have heard learned counsel for the parties. As an application under Section 12 of Protection of Women from Domestic Violence Act, 2005 has already been filed by the petitioner against respondent no.6, which is pending before the Court of Civil Judge, JMIC, Ludhiana and as according to the replies filed on behalf of the respondents, offences under Sections 376, 420, 325, 493 and 506 IPC are not made out against respondent no.6 after thorough investigation, no directions are required to be issued, at this stage, in this petition.

Petition is disposed of accordingly.

October 18, 2016

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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No