

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-23901 of 2014

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Date of decision:19.9.2016

Rajbir

.....Petitioner

v.

Jai Bhagwan and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Naveen Dahiya, Advocate for the petitioner.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of the impugned order dated 16.10.2012 (Annexure-P.2) passed by learned Judicial Magistrate Ist Class, Hansi vide which the complaint has been dismissed and the order dated 12.5.2014 (Annexure-P.4) passed by learned Additional Sessions Judge-cum-Special Court for Heinous Crime against Women, Hisar, vide which the revision petition of the petitioner has been dismissed, illegally without appreciating the actual and factual circumstances of this case.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Rajbir-complainant filed the complaint against Jai Bhagwan, Balli and Suresh. The complaint was filed on the allegations that the accused are dangerous and bad intention type

persons and having bad eyes upon the minor daughter of the complainant. On 4.7.2011 at about 9.00 p.m. when the daughter of the complainant (prosecutrix) was going to the shop, accused No.1 and 2 forcibly took her in their house and tried to commit rape with her. The complainant along with other members of his family reached at the spot and rescued the prosecutrix from the clutches of the accused, then both the accused started beating the complainant and his family members with the sticks due to which Rajbir and his family members had suffered injuries. After hearing the noise, the other persons of the street gathered there and by seeing them the accused started to run away and they also snatched the gold ear-ring of complainant's wife and wallet of the complainant having two thousand rupees. The complainant went to the Police Station to report the matter, where the accused along with 15-20 bad elements were standing outside the Police Station with sticks and the complainant and his family members were not allowed to enter in the Police Station and threatened the complainant that if he dared to make complaint in the Police Station, he would be killed. It is also the case of the complainant that he also sent complaint to the Inspector General of Police, Hisar and to S.D.M., Hansi and on his application Medical Officer, Hansi was ordered to conduct medico-legal examination.

A perusal of the record shows that after appreciating the preliminary evidence, the learned Judicial Magistrate Ist Class, Hansi, vide order dated 16.10.2012 dismissed the complaint. The revision petition was filed which was also dismissed by learned Additional Sessions Judge, Hisar, vide order dated 12.5.2014.

From the record, I find that as per the complaint, the occurrence took place on 4.7.2011 and the injuries were given to the family members of the complainant, but none of the injured of the complainant side had been medico-legally examined on that very day. An application was filed before the SDM, Hansi for medico-legally examination after about one month and no external injury was found. The complainant is relying upon the photographs only to show the injuries. Learned counsel for the petitioner also argued that the injuries were not found due to the time gap. If the complainant was knowing that there were no external injury marks on their persons then why he filed the application for medico-legal examination after about one month before the SDM, Hansi. Secondly, regarding the same occurrence, FIR had been got registered by the accused side against the complainant side on 14.7.2011 for causing injuries under Sections 323 and 325 IPC etc. Again there is nothing on the record to show that the matter was reported immediately to the Police. The accused relied upon some complaints dated 12.7.2011, 19.7.2011 and 1.8.2011 made by the daughter of the complainant. The Courts below after going through these complaints found the version improved and changed in these applications as well as in the present complaint.

After discussing these things, the Courts below found no ground to proceed against the accused. The orders passed by the Courts below are correct as per evidence and law and do not require any interference from this Court. In no way, these orders passed by the Courts below amount to miscarriage of justice.

[4]

Therefore, finding no merit in the present petition, the same is dismissed.

September 19, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No