

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

**Crl. Misc. No.M-28719 of 2013 (O&M)
Date of decision : 29.09.2016**

Reena

.....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sapan Dhir, Advocate
for the petitioner.

Mr. J.S. Bhullar, A.A.G. Punjab.

Mr. S.S. Rang, Advocate with
Ms. Avleen Kohli, Advocate
for respondent nos.4 to 11.

ANITA CHAUDHRY, J.

This petition has been filed under Section 482 Cr.P.C. for directions to respondent no.4 to conduct impartial inquiry/investigation in FIR No.19 and FIR No.317, registered at Police Station Tripuri and for protection.

The petitioner has claimed that she is a house-wife and has three children. On 12.09.2012 she had gone out to meet her brother Rajinder who lived in the same village and when she was returning back at 9:30 P.M., respondents no.5 to 8 along with some other persons abducted her in a black Maruti car near Rajinder's house and took her to the fields and she

was raped by respondents no.5 to 8. Her cries were not heard as it was a deserted place. The petitioner was left at about 11:30 PM in an unconscious state in the deserted part of the village. The husband came to know and got her admitted in Rajindra Hospital. She was medically examined the same night. Several complaints were given to SSP, Patiala, to the Chief Minister of Punjab and Human Rights Commission, Punjab etc. She also filed a petition (CRM-M-39141-2012) and subsequently the FIR was registered on 15.01.2013. The petition filed in 2012 was dismissed as infructuous since the FIR was lodged. It was pleaded that respondents no.5 to 8 got some papers signed from her & Kuldeep Singh who was extending help to her and she was taken before the Tehsildar and later on she came to know that the police had concocted statements. It was pleaded that she had not entered into any compromise and respondents no.5 to 11 were influential and they were harassing her.

The respondent-State in their reply had submitted that the complaint filed by the petitioner was investigated and during investigation, the petitioner had given a affidavit executed before the Executive Magistrate that no offence of rape or unnatural act had taken place. It was also pleaded that the petitioner was having illicit relationship with Kuldeep Singh @ Channi son of Sajjan Singh and it was Kuldeep Singh who was residing with the petitioner in her house and father of Kuldeep Singh refused to give him his share in the agricultural land as he had brought a bad name to the family and due to that grudge, the present FIR was lodged in connivance with the petitioner against the brother of Kuldeep Singh namely Mandeep Singh i.e. respondent no.5 and his cousin namely Chamkaur Singh

i.e. respondent no.6 and his close friends. It was pleaded that respondents no.9 to 11 were respectables of the village being an Ex. Sarpanch, Panch and President of the Cooperative Society of the village and all of them had been roped in so as to build pressure on the father to get a share in the land. It was pleaded that the matter was investigated and a cancellation report had been prepared and would be submitted. With respect to second FIR, it was pleaded that the investigation was conducted and the statement of Sher Kaur was recorded and on the basis of her statement, a cross version had been registered and it was inquired into and challan would be presented.

Separate reply was filed on behalf of respondents no.5 to 11 and it was pleaded that the petitioner had abandoned her husband and was living in adultery with Kuldeep Singh and the facts were verified by the Gram Panchayat that a compromise was effected on 17.01.2013 and complainant swore an affidavit before the Executive Magistrate, Patiala stating that there was a scuffle and exchange of hot words with Gurdeep Singh, Mandeep Singh, Karnail Singh and Chamkaur Singh and in a fit of rage, the petitioner got the FIR lodged making allegations of rape and it was an abuse of the process of law and the police had investigated the case and had filed cancellation report. It was pleaded that the petitioner was medically examined and there was no mark of injury or bite marks nor any sign of any violence on any part of the body and it was a false case.

I have heard both the sides.

The petitioner is seeking directions though cancellation report had been submitted. The police had found that contradictory statement had been made by the husband. The husband had made the statement that he

found his wife lying at 9:00 PM and had called the ambulance at 9:00 PM. It is not disputed that the petitioner is a *adhoc* employee of Rajindera Hospital and she was taken there around midnight. No injury was found. There was only complaint of pain. A protest petition has been filed.

In the light of the above, no directions are required to be given. It is for the Magistrate to decide whether the cancellation report is to be accepted or to act on the protest petition.

The provisions of Section 482 Cr.P.C. can not be invoked in the light of disputed facts. The petition is dismissed.

29.09.2016

Sunil

**(ANITA CHAUDHRY)
JUDGE**

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