

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

**Crl. Misc No. M-32197 of 2016  
Date of decision : 10.11.2016**

Liyakat ....Petitioner  
versus

Yusuf and anr. ...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. M.D. Khan, Advocate  
for the petitioner.

\*\*\*\*

**RITU BAHRI, J. (Oral)**

Prayer in this petition is for setting aside order dated 05.01.2015 (P-2) passed by learned JMIC Faridabad and order dated 20.07.2016 (P-3) passed by learned ASJ Faridabad whereby learned JMIC has dismissed the protest petition and the revision filed against the above said order, has also been dismissed in F.I.R No. 0343 dated 27.05.2013 under Section 376 IPC, registered at P.S Sector 55, Faridabad, District Faridabad.

F.I.R was registered by the wife of the petitioner on the ground that when she reached to the fields, some unknown person came from behind and pulled and threw her on ground. Thereafter, he committed rape upon her. When she raised noise, Asruddin and Faiyaz came there and identified the running man and saved the wife of the petitioner. The person was Yusuf.

After registration of the F.I.R, the wife of the petitioner was medically examined at B.K Hospital Faridabad where her statement under Section 161 Cr.P.C was recorded and statement of the eye witnesses were also recorded.

The above said F.I.R was cancelled as brother of accused namely Usman is Sub Inspector in Haryana and after cancellation of the F.I.R, the protest petition was filed, which was dismissed and revision filed against the above said

order has also been dismissed.

The protest petition has been dismissed primarily on two grounds i.e as per report of analysis of DNA profile of Seminal stains on the salwar of the victim Gulshan, which does not match with the DNA profile of Yusuf and it was proved that they are not of some biological origin. Further accused was found not to be present on the spot and he was attending the marriage in Village Chittori Firozpur Dwaika. Further prosecutrix stated that she was thrown on the ground but no injury was found.

Learned counsel contends that both the Courts did not consider and appreciate the evidence of the complainant, victim and two other eye witnesses despite the fact that they were not interested witnesses.

The argument raised by learned counsel is liable to be rejected, as it has been observed in both the orders that accused-Yousuf was attending the marriage in Village Chittori Firozpur Dwaika and further prosecutrix stated that she was thrown on the ground but no injury was found, as per report. The fact that Yousuf was attending the marriage was proved by the call details. During investigation, photographs and videography of the marriage was placed on record which showed that the accused was attending the marriage.

Thus, once the presence of the accused was found to be doubtful and as per report of analysis of DNA profile of Seminal stains on the salwar of the victim Gulshan does not match with the DNA profile of Yusuf, the present petition is dismissed.

10.11.2016  
G Arora

**(RITU BAHRI)**  
**JUDGE**

|                                         |                   |
|-----------------------------------------|-------------------|
| <b><i>Whether speaking/reasoned</i></b> | <b><i>Yes</i></b> |
| <b><i>Whether reportable</i></b>        | <b><i>No</i></b>  |