

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

Crl. Misc. No. M-31620 of 2015

Date of decision: 03.08.2016

Pardeep Kaur

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kirpal Singh, Advocate,
for the petitioner.

Mr. J.S. Riar, AAG, Punjab.

Mr. Gurcharan Dass, Advocate,
for respondent Nos.3 to 10.

RITU BAHRI, J.

This petition under Section 482 Cr.P.C. is for issuance of direction to respondent Nos.2 to 4 to investigate the cross version of petitioner (Annexure P-5) in FIR No.199 dated 20.06.2015, registered at Police Station Dakha, District Jagraon (Annexure P-3) in a fair and impartial manner.

The petitioner was five months' pregnant when on 20.06.2015, respondent Nos. 5 to 10 forcibly entered her house and gave merciless kick blows on her stomach, even though they were aware about her medical condition. This inhuman assault led to the fetal demise of petitioner's womb. The petitioner has placed on record copy of MLR dated 20.06.2015 (Annexure P-1) issued by CHC, Sahnewal, Ludhiana and photograph of demised fetus (Annexure P-2). The Gram Panchayat, Birmi had constructed

a new ramp on the drainage of street which leads to the house of petitioner and her husband-Sukhwinder Singh. Baljinder Singh @ Kindi-respondent No.5 bore a grudge for the same and in order to show his supremacy, he along with his relatives, trespassed the house of petitioner on 20.06.2015, at about 5.00 P.M. and started beating her husband mercilessly. When petitioner came forward to rescue her husband, Gurpreet Singh @ Fauji gave kick blows in her abdomen. Dalpreet Singh and Baljinder Singh also gave leg (kick) blows in her abdomen. Thereafter, they hit the petitioner against the wall. Petitioner's husband was given repeated blows with iron rod by Gurpreet Singh @ Fauji. Parkash Kaur, Charanjit Kaur @ Charnu and Babbu dragged the petitioner and her husband and gave them fist blows. In that situation, husband of the petitioner brought his licensed revolver and fired in the air. In this process, the bullet hit Parkash Kaur-respondent No.8. Thereafter, husband of the petitioner called the police. In the meantime, condition of the petitioner had been deteriorated. Husband of the petitioner was arrested by the police. Later on, neighbours and relatives of the petitioner took her to Civil Hospital, Sahnewal, from where she was referred to Civil Hospital, Ludhiana for treatment, where her fetus was expelled at 2.45 A.M. on 23.06.2015. The police came there in the afternoon. ASI Surjeet Singh took the fetus on the next day i.e. 24.06.2015 to Government Medical College & Rajindra Hospital, Patiala for postmortem examination. Doctors of Rajindra Hospital conducted the postmortem and gave their report on 24.06.2015 (Annexure P-4). On 23.06.2015, a cross version/case was recorded against the respondents under Sections 323/452/318/148/149 IPC (Annexure P-5). The police authorities visited the hospital on 27.06.2015 and discussed something with the doctors. Thereafter, the

petitioner was told by one nurse in the hospital that it was to be shown that she had got her abortion done with her own will. Upon this, the relatives of the petitioner got her discharged from the hospital on 26.06.2015. The petitioner, thereafter, filed CRM-M-25344-2015 before this Court, which was withdrawn on 31.08.2015 (Annexure P-7) with liberty to file fresh one with better particulars.

The petitioner, by way of CRM-11160-2016, has placed on record her statement (Annexure P-8), proceedings dated 23.06.2015 conducted by ASI Surjit Singh, ultra sound report dated 02.06.2015, report from the Department of Forensic Science, Government Medical College & Rajindra Hospital, Patiala with regard to the fetus and the report dated 06.08.2015 given by the Medical Board with regard to the cause of abortion of the petitioner.

Learned counsel for the petitioner has vehemently argued that as per the ultra sound report dated 02.06.2015, the petitioner was carrying normal pregnancy of 14.4 weeks. Thereafter, on 20.06.2015, when the accused persons trespassed her house, she suffered injuries which led to the abortion of her child. He has referred to the Medico Legal Report dated 20.06.2015 (Annexure P-1) to contend that even though there was no visible mark of any injury upon the petitioner, but the assault committed upon her was sufficient to cause premature abortion. As per MLR (Annexure P-1), initially, she was taken to CHC, Sahnewal, from where she was referred to the Civil Hospital, Ludhiana, where the dead male fetus expelled at 2.45 A.M. on 23.06.2015. This fact is apparent from medical record of the petitioner (Annexure P-6). Statement of petitioner was recorded on 23.06.2015 (Annexure P-5), in which she has given in detail, the manner in

which she was assaulted by Gurpreet Singh, Dalpreet Singh and Baljinder Singh. On seeing that she was being assaulted, her husband brought out his licensed revolver and fired shots in the air. After the incident, the petitioner was taken to CHC, Sahnewal by her brother-in-law Baljit Singh and Amit Kumar. Learned counsel for the petitioner has further referred to the proceedings (Annexure P-8) initiated by the police after recording statement of the petitioner. On 23.06.2015, ASI Surjit Singh recorded the cross version and L/C Ramandeep Kaur was sent to the police station to make entry in the daily diary. FIR (Annexure P-3) was registered on the statement made by Jasmel Singh.

Upon notice, reply on behalf of respondent Nos. 1 and 2 has been filed, wherein the allegations levelled by the petitioner are stated to have been found false. This finding has been given on the basis of the opinion given by the Board of Doctors that abortion of the child/foetus of the petitioner was not caused due to any assault on her. As per opinion of the Board of doctors dated 06.08.2015, the possibility of abortion having occurred as a result of assault was very unlikely and it could not be commented upon with absolute certainty that the abortion occurred due to mental stress and trauma the patient had undergone at the time of assault. As per the above opinion, there was no external mark of injury on the abdomen.

Mr. Gurcharan Dass, learned counsel for respondent Nos.3 to 10 has argued that the challan has already been presented against the petitioner and her husband-Sukhwinder Singh. The petitioner is yet to be arrested in this case. After her arrest, a supplementary challan is to be filed against the petitioner. He has further stated that earlier, Sukhwinder Singh

was married to Lakhwinder Kaur on 06.12.1998. Out of this wedlock, two sons namely, Gurwinder Singh @ Sajan and Harwinder Singh @ Rohit were born on 24.09.1999 and 14.01.2002 respectively. Lakhwinder Kaur along with her two sons, is residing at her parental house in District Moga. She also filed application under Section 125 Cr.P.C. (Annexure R-5/1) against Sukhwinder Singh. Another petition under the Protection of Women from Domestic Violence Act is also pending against Sukhwinder Singh at Moga. She also filed a criminal complaint under Section 494 read with Section 120-B IPC against Sukhwinder Singh and others in the Court of Judicial Magistrate, Ist Class, Ludhiana, copy thereof is attached as Annexure R-5/2. Present petitioner is not legally wedded wife of Sukhwinder Singh. In the report under Section 173 Cr.P.C. (Annexure R-5/3), it has been mentioned that no offence had been found regard the fact that the opposite party had gone to the house of Pardeep Kaur-petitioner. No cross case has been found to be made out against the respondents. It has been further argued that firearm was used by Sukhwinder Singh to cause injuries on the person of Gurpreet Singh son of Jasmel Singh. Thereafter, he was admitted in Dayanand Medical College & Hospital, Ludhiana on 20.06.2015. As per medical record (Annexure R-5/4), the bullet is still lying in the body of Gupreet Singh. The police had made an application for medical re-examination of Pardeep Kaur-petitioner, whereupon the Senior Medical Officer of Civil Hospital, Ludhiana, had constituted a Board of Doctors. The Board of Doctors had submitted its medical report dated 06.08.2015 (Annexure R-5/5), which was sent to the SHO, Police Station, Dakha, Ludhiana vide letter dated 22.08.2015 (Annexure R-5/6). He has further argued that the cross version has rightly been found to be false as there was

no injury on the abdomen and external genitalia as mentioned in the MLR. It has been further stated in the medical opinion that after the assault, there was no bleeding or LPV nor there was any petropigcentral clot on OSG. Hence, the possibility of abortion having occurred as a result of assault is very unlikely. It did not rule out that the abortion had occurred on account of mental stress and trauma.

Learned counsel for respondent Nos. 3 to 10 has contended that in her statement made by the petitioner on 23.06.2015 (Annexure P-5), she has stated that Gurpreet Singh @ Fauji hit legs in her stomach. Dalpreet Singh and Baljinder Singh caught hold of her and gave leg blows in her abdomen. She further alleged that Gurpreet Singh had given repeated blows with iron rod to her husband. However, there was no injury mark on the abdomen of the petitioner. Even the husband of the petitioner did not suffer any injury, as there is no such report of injuries on his body. The rivalry on account of the ramp having been constructed by the Gram Panchayat could be a cause, which led to the scuffle between the two parties. In the absence of any injury on the person of the petitioner, the cross version has been rightly found to be false, as there was no evidence to show that she had been mercilessly beaten by the above said accused.

In the written statement filed by respondent Nos. 1 and 2, this fact has been further highlighted that the child/foetus of the petitioner was not aborted on account of any assault to the petitioner. The allegations of the petitioner were found to be false as the investigation had been carried out by the DSP and SHO of the concerned police station. During investigation, it was found that neither respondent Nos. 5 to 10 had gone to the house of the petitioner nor they had caused any beatings to the petitioner and her

husband. Had she suffered any injury on account of merciless beatings, it would have been reflected in the MLR (Annexure P-1) and the report of the Board of Doctors dated 06.08.2015.

After hearing learned counsel for the parties, the present petition deserves to be dismissed. A perusal of report under Section 173 Cr.P.C. (Annexure R-5/3) shows that Sukhwinder Singh, husband of the petitioner, was grappling with Baljinder Singh in the street and the petitioner was standing there with a rod. An attempt was made by Dilpreet Singh, son of the complainant and Gurpreet Singh to stop Sukhwinder Singh when he in a fit of rage, took a licensed revolver from Pardeep Kaur-petitioner and fired shot in the air. The second shot hit Dilpreet Singh in his abdomen. As per challan, the incident did not take place in the house of the petitioner. Hence, in her statement (Annexure P-5), the petitioner has wrongly stated that the respondents had entered their house forcibly and assaulted them. Since the petitioner's husband had fired and a scuffle took place in the street between the parties, the petitioner, at best, would have undergone mental stress. However, in the absence of any injuries as per MLR (Annexure P-1), the medical opinion given by the Board of Doctors on 06.08.2015 (Annexure R-5/5) has to be accepted. Relevant portion of the opinion of the Board of Doctors is as under:-

“After thoroughly going through the medical record of the patient Pardeep Kaur, the board is of the opinion that as there was no injury on abdomen and external genitalia as mentioned in MLR and duration of time of assault and abortion was more than 48 hrs. and in the intervening period, patient did not have any bleeding or LPV nor there was any petropigcentral clot on OSG, therefore, the possibility of abortion having occurred as a result of assault is very unlikely and it cannot be commented upon with absolute certainty that the abortion occurred due to mental stress and trauma the patient had undergone at the time of assault.”

The opinion of the Board of Doctors is that duration between the assault and abortion was 48 hours and in the intervening period, the patient did not have any bleeding. Possibility of abortion having occurred on account of assault was very unlikely. It could not be said with certainty that it was on account of mental stress and trauma. Moreover, in the reply filed by respondent Nos. 1 and 2, there is no reference to any injury, which has been caused to the husband of the petitioner. However, in her statement (Annexure P-5), the petitioner has stated that her husband was given beatings with iron rod. As per her statement (Annexure P-5), if the petitioner had been given merciless beatings, it would have reflected in the MLR (Annexure P-1). In view of the opinion given by the Medical Board and in the absence of any injury on the person of the petitioner, the cross version has been rightly cancelled.

Resultantly, finding no merits, the present petition stands dismissed.

03.08.2016
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether reportable : *Yes/No*