

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.**

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**CRM-M- No.39657 of 2016
DATE OF DECISION: 02.12.2016.**

Ibrahim

...Petitioner.

VERSUS

State of Haryana and another

...Respondents.

CORAM : HON'BLE MRS. JUSTICE JAISHREE THAKUR

Present: Mr. Akshay Jindal, Advocate
for the petitioner.

Mr. Sharad K. Yadav, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 482 of Cr.P.C. for directing the respondents to transfer the investigation of FIR No.265 dated 20.09.2016 registered under Sections 363, 366-A, 354-A and 120-B of IPC and Section 8 of the POCSO Act at Police Station Tauru, District Mewat.

Notices were issued and the State has filed its reply, copy of which has been supplied to the counsel for the petitioner.

In the reply, it is mentioned that the daughter of the complainant was recovered on 26.09.2016 and she was produced before the Medical Officer for her medico legal examination which she refused to get done. Thereafter, statement was recorded under Section 164 Cr.P.C. on

own free will and had solemnized her marriage with him. It was submitted that she wanted to live with him. The young prosecutrix, aged 17 years 9 months, was thereafter, sent to Nari Niketan at Karnal. On 20.10.2016 another statement was made wherein she submitted that she does not want to reside in the Nari Niketan and wants to go back to her parents reiterating the fact that she wants to marry Altaf only and would not marry elsewhere.

Counsel for the petitioner herein urges that the Judicial Magistrate Ist Class be directed to once again record the statement of the prosecutrix in the light of the fact that she had been under the influence of Altaf all along.

Per contra, counsel for the respondents comments that the prosecutrix had suffered a statement. The prosecutrix, whose age is 17 years and 9 months, had again made a statement after a period of one month i.e. on 20.10.2016 that she wants to marry Altaf and would not marry elsewhere and therefore, it cannot be said that she can be under the influence of Altaf.

I have heard the counsel for the parties and taken out the fact that Altaf has been arrested on 13.11.2016.

The instant petition was filed for transfer of the investigation so that a free and fair investigation can be conducted. After perusing the reply that has been filed and taking note of the fact that accused Altaf has been arrested, I do not find that there is any lacuna in the investigation that is carrying on.

Counsel for the petitioner submits that he may be permitted to move a fresh application to the Magistrate for recording another statement of the prosecutrix.

In this regard, it is directed that in case such any application is filed the same should be decided in accordance with law.

With these observations, the instant petition stands disposed of.

(JAISHREE THAKUR)
JUDGE

02.12.2016.
komal

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