

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

-.-

Crl. Misc. M 27649 of 2015
Date of decision: 16.05.2017

Sher Khan alias Bachhi

..... Petitioner

Versus

State of Punjab and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Munish Raj, Advocate
for the petitioner
Mr. Mikhail Kad, AAG, Punjab
None for respondent No. 2

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Rekha Mittal, J.

Through the present petition filed under Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C.'), the petitioner prays for quashing of FIR No. 50 dated 07.08.2014 for offence punishable under Sections 363, 366-A, 365, 376 read with Section 120-B of the Indian Penal Code (in short, 'IPC') and 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 (in short the 2012 Act) registered with Police Station Smalsar and proceedings emanating therefrom.

The petitioner prays for quashing of criminal proceedings on the plea that other accused in the case namely Manpreet Singh alias Gaggi and Paramjit Kaur faced trial. The prosecutrix failed to support the prosecution version leading to acquittal of the accused vide judgment dated 16.12.2014 passed by the Additional Sessions Judge, Moga. Counsel would further submit that the petitioner was earlier declared as proclaimed offender but later he surrendered before the Court and till date challan has

not been presented against him.

Counsel for the State has not disputed the facts on record but opposed the prayer of the petitioner.

I have heard counsel for the parties and perused the paper book.

Indisputably, on completion of investigation, challan under Section 173 Cr.P.C. was filed against co-accused namely Manpreet Singh alias Gaggi and Paramjit Kaur wife of Bhana Singh. Both of them were subject to trial before the Court of Additional Sessions Judge, Moga. They were charged for committing offence punishable under Sections 363, 366-A and 376 read with 120-B IPC. The prosecution examined the prosecutrix (name kept concealed)-PW1 and Mandeep Kaur (her mother)-PW2. The prosecutrix and complainant-Mandeep Kaur failed to support cause of the prosecution in its entirety. A relevant extract from the testimony of the prosecutrix referred to in para 9 of judgment dated 16.12.2014 passed by the trial Court in favour of Manpreet Singh and another reads as follows:-

“Prosecutrix while appearing in the witness box as PW1 has stated that Manpreet Singh accused is son of her mother's sister, who used to visit their house frequently. On 26.06.2014, Manpreet Singh had not taken her and her mother to Baghapurana for withdrawing money, on their motorcycle. He had not kidnapped her on motor cycle in order to compel her for sexual intercourse on the pretext of marriage, nor he had committed rape on her person in village Burj Bhalaian under the influence of intoxicant substances. Satnam Singh alias Sata had not committed sexual intercourse on her person at the instance of Manpreet Singh. Paramjit Kaur accused had not compelled her to go for sexual intercourse with Sher Khan alias

Bachhi Gujjar for sake of money.”

Similarly, Mandeep Kaur, complainant refused to own the story narrated in her first version, basis of the FIR. In addition, she had stated that *“her daughter had gone to see her sister Paramjit Kaur in village Jagjitpura and she had brought her back in the house after few days as she had gone without informing her.”*

From the facts on record, it becomes undisputed position of the case that the prosecutrix and her mother (complainant) not only failed to support cause of the prosecution but also denied genesis of the crime. As the prosecutrix and her mother altogether denied the story narrated in the FIR, continuation of the criminal proceedings against the petitioner would be nothing short of an exercise in futility at the cost of wastage of time and energy of all stakeholders particularly the Court when otherwise the Courts are over-burdened with pendency of cases. That being so, if the petitioner is compelled to face trial, there is bleak rather remote possibility of the prosecution resulting in any fruition. In this view of the matter, it is expedient in the interest of justice that the criminal proceedings are put to an end.

For the foregoing reasons, the petition is allowed, FIR No. 50 dated 07.08.2014 for offence punishable under Sections 363, 366-A, 365, 376 read with 120-B IPC and 6 and 17 of the 2012 Act registered with Police Station Smalsar and proceedings emanating therefrom stand quashed qua the petitioner.

(Rekha Mittal)
Judge

16.05.2017
mohan bimbura

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