

CRM-M- 7638 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

CRM-M- 7638 of 2016

Date of Decision:23.3.2017

Mahinder Singh and another

---Petitioners

vs.

State of Punjab and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Riffi Bala Birla, Advocate
for the petitioners
Mr. Mikhail Kad, AAG, Punjab

Rekha Mittal, J.

The petitioners pray for issuance of direction to respondent Nos. 2 to 5 to arrest the accused in FIR No. 19 dated 26.1.2016 registered at Police Station, Sadar Fazilka for offence punishable under Section 376 of the Indian Penal Code (in short "IPC") and to appoint a special investigating team of police officers preferably from other district for fair and impartial investigation in the aforesaid FIR.

Counsel for the petitioners has submitted that the aforesaid FIR was lodged at the instance of the victim aged about 16 years wherein she has levelled specific allegations against Kulwinder Singh @ Gogi son of Mandeep Singh resident of Saido Ke Hithar who came to the house of the victim on 23.1.2016 at about 10-00 p.m. and ravished her. It is further submitted that due to influence exerted by parents of the accused being son

of ex-sarpanch Darshana Rani, police has neither arrested the accused nor conducted proper investigation.

Counsel for the State, on the contrary, has submitted that as per the report submitted by the Station House Officer, Police Station, Sadar Fazilka dated 30.3.2016, there is party faction in the village. Makhan is the sarpanch in the village but Joginder Singh member is running administration of the panchayat whereas the other party is represented by Darshana Rani, ex-sarpanch. Kulwinder Singh @ Gogi is the son of ex-sarpanch Darshana Rani and the complainant is the niece of Joginder Singh. During investigation, it has been found that some unknown boy must have come at the house of Mahinder Singh to meet the victim but Kulwinder Singh @ Gogi had not visited their house. Nevertheless, counsel has submitted that in case this Court does not feel satisfied with the investigation conducted till date or the report submitted by the Station House Officer, Sadar Fazilka, appropriate order may be made.

I have heard counsel for the parties, perused the FIR and the status reports submitted by the State from time to time.

Complainant has levelled specific allegations against Kulwinder Singh @ Gogi having come to her house at about 10-00 p.m. on 23.1.2016 and subjected her to rape. The police is required to conduct an investigation in the matter as to whether allegations raised by the victim against Kulwinder Singh @ Gogi are correct or otherwise. It is one thing to say that the offence was committed by Kulwinder Singh @ Gogi and it is another thing to say that it was committed by some other person. As the complainant has nominated the accused by giving his complete particulars,

there can be no such finding by the police that the rape has been committed by somebody else.

On due consideration of the status reports submitted by the police, I am satisfied that the matter needs probe by a team of competent officers so that truth comes on the surface and justice is done to the victim as well as accused. In this view of the matter, the petition is disposed of with a direction to the Senior Superintendent of Police, Fazilka to constitute a special investigating team (SIT) headed by a lady police officer of Indian Police Service posted in district Fazilka.

Counsel for the State, on instructions, has apprised the court that Ms. Kanwardeep Kaur, IPS is posted as Superintendent of Police (Headquarters), Fazilka. The Senior Superintendent of Police, Fazilka is directed that the SIT shall be headed by Ms. Kanwardeep Kaur, IPS. This court expects that the SIT completes investigation expeditiously, without any loss of time. The SIT shall be constituted within a period of 15 days from the date of receipt of certified copy of the order.

(Rekha Mittal)
Judge

23.3.2017
paramjit

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