

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

CRM-M-30533-2017

Date of decision:-15.2.2018

Manisha

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Rakesh Khandelwal, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for quashing of FIR No.44 dated 12.7.2016, under Sections 370, 388, 511 IPC (added later on) and Section 376 and 195-A IPC (deleted later on), registered at Police Station Women, Sonipat as well as for quashing of impugned charge-sheet/charge order dated 8.8.2017 has been filed by petitioner Manisha, aged about 20 years, daughter of Sh.Darshan Singh, resident of House No.451, New Adarsh Nagar, Hisar.

Inter alia, in the petition, the petitioner has contended that

the contents of the FIR in question are totally wrong and concocted; that as a matter of fact, the petitioner had lodged an FIR No.44 dated 12.7.2016, under Section 376 IPC with Police Station Women, Sonipat and on that very date, her statement under Section 164 Cr.P.C. was got recorded from JMIC, Sonipat; that thereafter offence under Section 376 IPC was deleted; that in pursuance of the disclosure statement made by co-accused Saroj wife of Jaipal and Rajbir @ Sandeep son of Sube Singh, who were arrested on 17.11.2016 in investigation of cross FIR No.645/16, under Sections 384, 389, 120-B IPC, Police Station City, Rohtak, the petitioner was involved in this case. According to the petitioner, she has been involved in this case on the basis of her statement recorded under Section 164 Cr.P.C., which is not a substantive piece of evidence; that there is no independent complaint or statement of Gaurav @ Karambir or his friend against the petitioner regarding blackmailing or extortion etc.; that the FIR for offence under Section 376 IPC should have been cancelled and then forwarded to Illaqa Magistrate and only after acceptance of the same further action could be taken against the present petitioner; that the petitioner has been arrested on 10.1.2017. According to the petitioner, she is a simple house wife and not a habitual offender and rather she has been used by her co-accused and she is having a two year old child namely Kavya Singh.

Notice of the petition was issued to the respondents, who put in appearance through State counsel. In the reply submitted on behalf of respondents in the form of affidavit of DSP, Headquarter, Sonipat, it has been contended that the petition filed by the petitioner is not maintainable and is liable to be dismissed because FIR No.44 dated

12.7.2016 for the offence under Section 376 IPC was registered with Police Station Women Cell, Sonipat on complaint of the petitioner against Karambir @ Gaurav and was investigated by P.S. Women Cell, Sonipat; that during the course of investigation, the prosecutrix made a statement under Section 164 Cr.P.C. before Judicial Magistrate Ist Class, Sonipat stating that Gaurav @ Karambir had taken her to his room at Patel Nagar, Sonipat and had sex with her once; that she had further stated that she had sex with Gaurav @ Karambir of her own wish and consent and no force was used against her; that she had further stated that she had given a false complaint against Gaurav @ Karambir at Women Police Station, Sonipat since her maternal aunt wanted to grab/extort money from Gaurav @ Karambir, in that way, she had conspired with her maternal aunt and made an attempt to extort money from Gaurav @ Karambir by putting him in fear of an accusation of having committed rape, therefore, in the present case report under Section 173 Cr.P.C. was filed against the prosecutrix/present petitioner. In the end, such respondents prayed for dismissal of the petition.

I have heard learned counsel for the parties besides going through the record and I do not find any merit in the petition.

As per the own case of the petitioner, she had lodged an FIR against Gaurav @ Karambir levelling allegations of rape, though later on she had made statement under Section 164 Cr.P.C. stating that she had sex with him of her own without any pressure, in that way giving clean chit to that Gaurav @ Karambir. Thereafter, it turned out that petitioner had lodged the FIR against Gaurav @ Karambir just to extort money from him and she had levelled false allegations in her

statement to the police. It transpired that petitioner had entered into conspiracy with her maternal aunt to extort money from Gaurav @ Karambir by putting him in fear of accusation of having committed rape upon the petitioner.

Thus, the action of the respondents in initiating proceedings against the present petitioner cannot be said to be driven by any *mala fide* or extraneous factors. The FIR thus disclose commission of cognizable offences against the petitioner and it can certainly be not termed as an abuse of process of law. I do not see any reason to quash the FIR No.44 dated 12.7.2016 or the ancillary/subsequent proceedings arising therefrom.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

15.2.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No