

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

CRWP-501-2017

Date of decision:-2.8.2018

Jahid

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr.Narender Pal Bhardwaj, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Petitioner Jahid has approached this Court by filing the petition in hand contending that his daughter Gulista, aged 17 years and 11 months went missing on 13.12.2016; that he accordingly informed the police; that FIR for the offence under Section 365 IPC was registered; that the matter was investigated; that from the mobile phone of Gulista, it came out that a boy, namely, Badal aged 27 years belonging to village Andi, Tehsil Kairana, District Shamli (Uttar Pradesh) was in regular contact with her; that the said Badal had been working as a Carpenter and residing in a rented accommodation behind the barber shop of petitioner; that the police did not carry out the investigation properly, as such, the

petitioner, who is complainant in the FIR submitted several representations to various authorities and institutions; that it was only due to intervention of State Women Commission that the local police arrested the suspect in the case; that investigation was then handed over to DSP, Panipat; that thereafter Special Investigation Team was constituted by Superintendent of Police, Panipat; that during investigation it transpired that Badal had disclosed before the police that he had sent the girl to Pune with a boy namely Rahul, however, later on he denied that fact.

The grouse of the petitioner is that the police has failed to locate his daughter. The petitioner does not know whether her such daughter is alive or not. However, he has strong suspicion that his said daughter is being illegally detained by criminals. As such, he has approached this Court asking for several reliefs, which are as under:

- (i) issuance of direction to official respondents to trace/search out detainee i.e. daughter of petitioner and produce her in this Court;
- (ii) issuance of a direction to official respondents to carry out the investigation in a fair and impartial manner;
- (iii) to appoint a Special Investigation Team headed by Senior IPS Officer;
- (iv) to locate Gulista and to find out the actual culprits behind the offence;
- (v) to hand over the investigation of the case to Central Bureau of Investigation; and
- (vi) taking of an appropriate administrative disciplinary

penal action against the erring officials i.e. private respondents for dereliction of duty.

On notice, the respondents appeared and filed various status reports. In one such report, which is dated 3.7.2017, it is contended that after lodging of FIR by the present petitioner, the investigating agency of police tried its level best to trace the girl but in vain; that a Special Investigation Team comprising five members was constituted; that on 27.12.2016, the petitioner came to Police Post Assandh Road, Panipat and submitted a complaint mentioning therein that he had come to know that their neighbourer namely Badal had kidnapped Gulista with an intention to marry her; that his supplementary statement was recorded; that Badal was accordingly arrested and interrogated during the course of which, he made disclosure statement to the effect that he had kidnapped Gulista on the intervening night of 12/13.12.2016 and thereafter had taken her to Muzaffarnagar, Haridwar and Dehradun and then keeping her in rented house in his village Aaldi; that he had also disclosed that he was pretending that he would marry Gulista but could not arrange money and therefore was unable to marry her. According to this accused Gulista stated that she was missing her parents and siblings, as such, she be left at her house, otherwise she would go by herself, therefore Badal took her to Railway Station, Panipat and from there Gulista stated that she would go to her house of her own; that accordingly, Badal left her at Railway Station, Panipat; that the police of Police Post Assandh Road, Model Town, Panipat tried its level best to trace the prosecutrix but in vain; that after completion of investigation, challan has been prepared and filed in

the Court of Illaqa Magistrate, Panipat on 6.6.2017; that accused Badal is in judicial custody. In status reports dated 5.9.2017, 10.10.2017 and 15.1.2018, almost this very version has been reiterated.

I have heard learned counsel for the parties besides going through the record.

It comes out that the police has made earnest efforts to solve the case and to locate Gulista but could not locate her. There is nothing on record to show that the police is working under pressure or its attitude is biased or partial. The police had picked Badal, a person suspected by petitioner himself to be behind kidnapping of his daughter. His disclosure statement was recorded and thereafter he has been sent up to face trial. None of the reliefs claimed in the petition can be granted to the petitioner for the reason that the local police despite making efforts has been unable to locate Gulista. The petitioner has not been able to point out as to where she (Gulista) is being allegedly detained and by whom. Though he had named Badal as a suspect, who was arrested and joined in investigation but he could not give any clue as to where Gulista is residing and whether she is being illegally detained there, as such, police could not possibly find out Gulista and cause her appearance in the Court.

As regards the second part for issuance of direction to respondents to carry out fair and impartial investigation, after completion of investigation, challan has been filed in the Court against Badal. As already observed, no visible fault in the investigation comes out to be there. On filing of the challan, this request has got redundant.

Learned counsel for the petitioner has argued that in suitable

cases, investigation can be handed over to CBI or any other independent agency in order to do complete justice. He has referred to authorities *Bharati Tamang Versus Union of India and others, 2014(3) R.C.R.(Criminal) 347, Vinay Tyagi Versus Irshad Ali @ Deepak and others, 2013(2) R.C.R.(Criminal) 197.* However, these authorities do not help the petitioner since in the present case there is nothing on record to show that investigation carried out by the police has been faulty or defective, which might have resulted in issuance of order by this Court transferring investigation to some specialized agency or CBI. Further on completion of investigation, challan has been filed in the Court. Therefore, the request more or so has become redundant.

As regards request for constituting of a Special Investigation Team, that has already been done under orders of Superintendent of Police, Panipat.

As regards taking of disciplinary action against the private respondents, unless some misconduct is established even prima facie against them, no such action can be recommended.

I do not find any merit in the petition and the same stands dismissed accordingly.

2.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No