

239.

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

CRM-M-28974-2018

Date of decision:16.08.2019

JAMIL AHMED

... Petitioner

versus

STATE OF HARYANA & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: None for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is to hand-over the investigation of case FIR No.70 dated 01.05.2018 registered under Sections 363, 366A, 306 IPC and Section 6 of Protection of Children from Sexual Offences Act, at Police Station Rozka Meo, District Nuh, to some senior Police Officer or to some independent agency as the local police has colluded with respondents No.5 to 10 and other accused named in the FIR.

The present FIR was registered at his behest of petitioner with the allegation that on the intervening night of 29/30.04.2018, when he (complainant) and his children were sleeping in different rooms, at about 2.30 AM, his daughter Sadhna told him that Sajida (since deceased) is not in the house. The petitioner-complainant sent his son and nephew to locate Sajida. They searched her and brought her back to home. Next day, in the morning at about 10 AM, the victim told the incident to her family that

Ikram @ Ikku, Akram, Nasir took her on a motorcycle on the way to Village Mahon, where the other accused Wasim, Irsad, Maruf, Jamshed also met them in a Swift Car. They committed rape upon the victim and she became unconscious. After committing rape, they left her on the road and fled away from the spot. Thereafter, the victim Sajida committed suicide by hanging herself from roof and in this manner, the present FIR was registered.

No one is present on behalf of the petitioner.

Reply by way of affidavit of Sukhbir Singh, HPS, Deputy Superintendent of Police, Nuh has already been filed, on behalf of respondents No.1 to 4. As per the reply, investigation in the case was conducted and during the course of investigation, the IO has joined the respectable people of the village and no cogent and reliable evidence has come-forth against the proposed accused, namely, Akram, Nasir, Irshad, Marook, Jamshed, Imran and Washim. The vehicle Swift car was recovered on 09.05.2018. On 12.05.2018, the accused Arshad (respondent No.5), Sahid (respondent No.6) were arrested in the case who suffered their disclosure statements and admitted their guilt without any pressure and demarcated the place of incident. On the basis of their (Arshad and Sahid) disclosure statement, Mujamil (respondent No.9) son of Shamsheer was also found involved as an accused in the case and was arrested under Section 120B of IPC on 16.05.2018. The mobile of accused Arshad was taken away by Sahid @ Mulla R/o Basai and he was arrayed as an accused under Section 201 IPC and was arrested on 14.05.2018. The offence under Section 4 of POCSO Act was added in the present case on the basis of disclosure statement of Arshad, who admitted to have committed rape upon Sajida in the park on 22.02.2018. The accused Mubarik (respondent No.10) R/o

Mehrola and Ikramuddin (respondent No.8) R/o Khod Basai, were also arrested in the case and the motorcycle was also recovered from the accused Ikramuddin. The offence under Section 12 of POCSO Act was also added in the present case as the accused have eve-teased the victim. The warrant of arrest of accused Sajid @ Sanni, R/o Adbar was procured from the learned trial Court for second time on 18.08.2018 and the date of appearance was fixed for 27.09.2018 in the Court. Thereafter, an application was moved in the Court of learned Illaqa Magistrate for the polygraph test of proposed accused, namely, Akram, Nasir, Irshad, Marook, Washim, Jamshed and Imran. Blood samples of these accused were taken for their DNA. The blood samples of arrested accused, namely, Ikramuddin, Arshad, Sahid, Mujmmil, Mubarik were also taken for DNA, which were sent to the FSL, Madhuban for biological examination. Thereafter, the SHO, Police Station Rozka Meo prepared challan under Section 173 Cr.P.C. against six accused, namely, Arshad, Sahid, Muzmil, Sahid @ Mulla, Ikramuddin and Mubarik on 10.07.2018, which was submitted in the Court of learned Illaqa Magistrate on 02.08.2018 for committing the case to the learned Sessions Judge, Nuh, for trial. The case was fixed for framing of charge for 09.10.2018. Thereafter, charges were framed in the case and PWs have been examined in the case.

Learned State counsel has apprised this Court that as against 56 prosecution witnesses cited by the prosecution, as many as 5 witnesses have been examined in the case.

In view of the reply and the information given by the State counsel, who is assisted by the IO ASI Ashok Kumar, this Court finds that

senior police officer or to some other independent agency cannot be accepted as the trial in the case has already begin and 5 PWs have been examined in the case.

In view of above, no further order is required to be passed in the present petition and the same is disposed of accordingly.

(HARI PAL VERMA)
JUDGE

16.08.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No