

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

CRM-M-17156 of 2019.

Decided on:- May 30, 2019.

Ilma (minor) through her father Basrudin.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Anirudh Singh Shera, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

Mr. Saleem Ahmed, Advocate
for respondent No.5.

HARI PAL VERMA, J. (Oral)

The petitioner who is minor has filed the present petition through her father Basrudin under Section 482 Cr.PC for issuance of directions to official respondents No.1 to 4 to conduct a fair and impartial investigation in FIR No.3 dated 29.01.2019 under Sections 5 and 8 of the Protection of Children from Sexual Offences Act, 2012 and 506 IPC registered at Women Police Station, NIT, Faridabad from any independent agency or some higher officer.

Power of attorney filed on behalf of respondent No.5 in Court today, is also taken on record.

Vide order dated 22.04.2019 passed by this Court, learned State counsel was directed to apprise this Court about the status of the case on the next date of hearing i.e. 23.05.2019. Pursuant thereto, learned State counsel had filed the status report submitted by respondents No.1 to 4 through Dhaarna Yadav, HPS, Assistant Commissioner of Police, Crime Against Women, Faridabad.

In the background of the aforesaid status report, learned State counsel has submitted that after the registration of the FIR, statement of Basrudin, who is father of petitioner was recorded. Even the petitioner was got medically examined from the Medical Officer, B.K. Hospital, Faridabad. In the medical examination, no mark of external injury was seen. The hymen was found intact. Labia Majora and Minora were developed as per age. Menarche was not attained yet. All the organs were stable and no abnormality was found. However, the doctor opined that the possibility of attempt to sexual assault cannot be ruled out. Two vulval swabs were taken and a vial containing the swabs duly sealed alongwith an envelope was given by the doctor. The swabs alongwith the letter were sent to the Regional Forensic Science Laboratory, Bhondsi (Gurugram).

Learned State counsel has further submitted that efforts were made to arrest respondent No.5 Sahid and since there were allegations that Raseed, who is brother of respondent No.5 had given shelter to respondent No.5, Section 212 IPC was added in the case. On 21.03.2019, accused Raseed brother of respondent No.5 was arrested. Similarly, Javed, who is another brother of respondent No.5 was joined in the investigation on 27.03.2019. Javed stated that his brother Raseed is a member of a committee run by

Samina mother of the petitioner. On 22.01.2019, his brother Raseed had gone to the house of Samina and demanded his amount of Rs.6,00,000/- regarding that committee, but Samina threatened him and stated that he would see the result after 2-3 days. Thereafter, Raseed had gone to Pritampura, Narnaul on 24.01.2019 and returned home on 25.01.2019. Javed had further stated that his brother Sahid was not in the village on the alleged date of incident.

On the basis of status report, learned State counsel has further submitted that during investigation, Satish Kumar owner of Royal Marble, Narnaul and his Munshi Deepak were also joined, who have stated that on 24.01.2019 at 04.24 P.M., vehicle No.HR-38Y-1072 was loaded with stones from Mukunpura village and a slip No.667385 was issued, the copy of which was taken into possession. Subhash Chand, Manager, Pasco Motors, Sector-6, Faridabad stated that on 25.01.2019, vehicle No.HR-38Y-1072 was brought by Sahid at 08.31 A.M. and was taken away at 03.08 P.M. from the company. So long as the vehicle remained in the company for repair, Sahid remained present there. Sahid was found present at a welding shop in front of a petrol pump at about 05.00 P.M. on that date which was duly verified by the nearby persons. The statement of the petitioner was also recorded under Section 164 Cr.PC before CWC and there were several contradictions in her statement. As per the report of the Regional Forensic Science Laboratory, Bhondsi (Gurugram), semen could not be detected on vulbal swabs. Thus, the allegations of rape made by the petitioner did not find any merit as no mark of external injury was found on her person, hymen was found intact and semen could not be detected on vulval swabs. Accordingly, a cancellation report in the case was prepared on 24.04.2019, which is being sent to the area

Magistrate, Faridabad for further consideration. On 23.05.2019, this Court has passed the following order:

“As per office report, the status report submitted by respondents No.1 to 4 through Dhaarna Yadav, HPS, Assistant Commissioner of Police, Crime Against Women, Faridabad has been filed and the same is attached as Flag ‘A’.

Learned State counsel, on instructions from LASI Jagwati, submits that the father and mother of the prosecutrix are in habit of making such false accusations against different persons. As per the record, the parents of prosecutrix have made such like complaints against 30 persons.

Learned State counsel is directed to submit details of such complaints so that appropriate direction/order may be passed in the case.

Adjourned to 30.05.2019.”

In compliance of order dated May 23, 2019 passed by this Court, learned State counsel has filed status report giving details of complaints made by the parents of the prosecutrix, by way of affidavit of Dhaarna Yadav, HPS, Assistant Commissioner of Police, Crime Against Women, Faridabad dated 29.05.2019. The same is taken on record.

The aforesaid report dated 29.05.2019 suggests that Samina mother of the petitioner, had also made a complaint to the Commissioner of Police, Faridabad dated 10.07.2018 against one Vijender making allegations of misbehaviour and abuses. She has also alleged obscene acts on the part of Vijender towards her daughter and herself. The said complaint was looked into by the police and no truth was found in it. There is a reference that as

many as seven such complaints were given by the prosecutrix and her parents qua other persons which were ultimately found false. Similarly, about 10 persons, who are members of the committee being run by Shamina have given their affidavits that as and when they had gone to the house of Shamina and Basrudin to demand the amount of committee, both of them not only refused to pay any amount to them and, rather, threatened these victims that if they again come to their house for such demand, they (parents of the petitioner) would get them involved in a rape case.

This Court has looked into the affidavits of these persons and it is noticed that Basrudin and his wife Shamina are in habit of making such like allegations against innocent persons for which this Court directs that let a Special Investigation Team be constituted by the Commissioner of Police, Faridabad to look into the affidavits submitted by 10 persons, as mentioned in paragraph No.5 of the status report dated 29.05.2019 filed by learned State counsel in Court today, and in case it is found that Basrudin and Shamina are in habit of indulging in such like practice repeatedly, an appropriate action would be taken against them in accordance with law.

The prayer of the petitioner to direct the respondents for fair and impartial investigation is hereby rejected in the light of status report as submitted by Assistant Commissioner of Police, Crime Against Women, Faridabad.

The present petition is, accordingly, dismissed with costs of Rs.10,000/-. Basrudin father of the minor petitioner is directed to deposit the costs with the District Legal Services Authority, Faridabad within two months from the date of receipt of certified copy of this order. The certified copy of

this order be served upon Basrudin through SHO, Women Police Station,
NIT, Faridabad.

May 30, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No