

CRM-M No.17144 of 2019

[1]

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

CRM-M No.17144 of 2019

Date of Decision: 09-05-2019

Sandeep

.....Petitioner

v.

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

Present: Mr.Mukesh Yadav, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J.

Petitioner is seeking quashment of FIR No.83 dated 6.6.2018 registered at Women Police Station, Narnaul under Sections 376/452 of the Indian Penal Code alongwith all consequent proceedings.

FIR was lodged by the prosecutrix alleging that on 3.6.2018 between 9.30 to 10.00 A.M., she was present in her house. Petitioner came there. He grappled her, put her on the cot, torn her clothes and committed sexual intercourse with her.

After investigation, challan was submitted. The trial is in progress.

Counsel for the petitioner has submitted that medical evidence does not support the case of the prosecution and the Village Gram Panchayat has submitted resolution Annexure P1 certifying that petitioner is of a good character.

I have heard counsel for the petitioner and gone through the material available on the record.

The Hon'ble Supreme Court in **State of Haryana and others v. Ch. Bhajan Lal and Ors.**, 1992 AIR (SC) 604 made the following observations:-

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formula and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence,

justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act,

providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

The allegations and assertions made by the parties are matters of facts and those can be proved or disproved by leading evidence. Apart from it, the trial is in progress.

Therefore, at this stage, no case is made out for quashing the FIR.

Dismissed.

May 9, 2019

(RAJ SHEKHAR ATTRI)
JUDGE

RC

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No