

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-3841 of 2016 (O&M)

Date of Decision: 17.12.2019

Sherry Guraya

...Petitioner (s)

Versus

State of Punjab & others

...Respondent(s)

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

Present:- Mr. Sartej Singh Narula, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Dheeraj Mahajan, Advocate
as Amicus Curiae.

Mr. Amit Gupta, Advocate
for respondent no.4.

HARI PAL VERMA, J. (Oral)

Petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 so as to seek a direction to respondent no.2 to look into the representation dated 20.01.2016 (Annexure P-6) filed by the petitioner and further to transfer the enquiry of complaint dated 24.10.2015 (Annexure P-1) made by the petitioner against respondent no.4 to any other agency or authority.

Briefly stated, the petitioner, who is claiming to be a divorcee, had come in contact with respondent no.4, who projected himself to be unmarried and offered to stay with the petitioner with an assurance that he

will marry the petitioner and shall also adopt the children of the petitioner. However, after about a year, the petitioner came to know that respondent no.4 is already married and his wife is settled abroad along with children. When the petitioner objected to it, respondent no.4 begged for apology and promised that he would give divorce to his wife after going abroad. The respondent no.4 visited abroad on two different occasions, but did not talk about the divorce with his wife. In this manner, respondent no.4 while taking advantage of innocence of the petitioner had been living in the house of the petitioner. She was given beatings and continued to be harassed by the respondent. When the petitioner tried to initiate action against respondent no.4, he threatened her while putting his pistol on her head. Highlighting the threatening behaviour of respondent no.4, the petitioner made a complaint dated 24.10.2015 (Annexure P-1) to respondent no.3. But when no action was taken thereon, the petitioner made another representation dated 20.01.2016 (Annexure P-6) to respondent no.2 with a copy to respondent no.3, but to no avail.

Learned counsel for the petitioner has argued that the fundamental rights of the petitioner, as enshrined under Article 21 of the Constitution of India, be safeguarded and the life and liberty of the petitioner as well as her children be protected by providing appropriate security to them.

On 03.02.2016, this Court, while issuing notice of motion in the case, directed the respondent-State to file status report in the matter to show as to what action has been taken on the representations Annexure P-1 and P-6. Pursuant thereto, status report by way of affidavit of Varinderjeet

Singh PPS, D.S.P., City-II, District SAS Nagar, Mohali dated 18.07.2016 was filed. As per the status report, the matter was entrusted to Superintendent of Police, City-I, District SAS Nagar, Mohali, who after associating the parties, conducted an inquiry into the matter and submitted his report. It was found that the family of Inspector Gurdeep Singh (respondent no.4) used to live abroad and while he was posted at Police Station Phase-XI, District SAS Nagar, Mohali from March, 2013 till October, 2013, he had taken a room on rent in the house of the petitioner, where respondent no.4 established physical relations with the petitioner consensually, which is clear from the fact that no complaint was ever made by the petitioner in this regard. However, due to the dispute between the petitioner and respondent no.4, the matter has been publicized and it earned a lot of disrepute to the police department. Therefore, Superintendent of Police, City-I concluded that no cognizable offence was found to be made out against respondent no.4. However, he recommended for initiation of departmental proceedings against respondent no.4, as he had given bad name to the police department. In this manner, departmental inquiry was initiated against respondent no.4 and subsequently, as the allegation of moral misconduct against respondent no.4 was found proved, notice was given to respondent no.4 for forfeiture of his 5 years of service. The allegations so levelled in representation Annexure P-1 were looked into by the Inquiry Officer, but neither any incident of beating of the petitioner or threatening her with pistol was found established. The status report further suggests that for a fair, prompt and impartial inquiry, the Inspector General of Police, Zonal-I, Patiala constituted a Special Investigation Team vide

office order dated 29.06.2016 under the supervision of Senior Superintendent of Police, District SAS Nagar.

Further, the affidavit dated 15.12.2016 by Gagandeep Singh Bhullar, PPS, D.S.P., City-II, District SAS Nagar, Mohali, which was filed in compliance of order dated 18.10.2016, suggests that on the basis of threat perception raised by the petitioner, she was provided security from 03.11.2016 onwards, to which the petitioner had shown her satisfaction. The affidavit further suggests that the departmental inquiry against respondent no.4 has been concluded and three years service of respondent no.4 has been forfeited vide office order dated 13.12.2016 passed by DIG, Rupnagar Range, Rupnagar in terms of Rule 16.1 of the Punjab Police Rules, 1934.

Pursuant to the directions issued by this Court vide order dated 01.05.2017, whereby the State counsel was directed to verify why the security of the petitioner has been withdrawn by the concerned police authorities, respondent no.3 has filed affidavit dated 08.05.2017 of Ramandeep Singh PPS, D.S.P., City-II, District SAS Nagar, Mohali. As per the affidavit, the security of the petitioner had been withdrawn on 29.03.2017 in view of change of Government in the State of Punjab, as all the personal security was withdrawn. Moreover, the petitioner did not approach the police during this period on account of any threat to her life and liberty. But still, a PCR van had been directed to remain present near the house of the petitioner and the patrolling party had been directed to patrol the area on regular intervals while keeping special check for the protection of the petitioner.

Thereafter, fresh status report dated 08.04.2019 has been filed by way of affidavit of Ramandeep Singh PPS, D.S.P., City-2, District SAS Nagar, Mohali, on behalf of respondents no.1 to 3. As per the status report, the case regarding providing security to the petitioner was pending with ADGP Security, Punjab and after reviewing the threat perception to the petitioner, the ADGP Security, Punjab passed an order dated 31.08.2018, wherein her request for security was declined. The said order was duly conveyed to the petitioner. Thus, after reviewing the threat perception to the petitioner, her security was withdrawn as per the norms and guidelines as laid down in the State Security Police.

After hearing learned counsel for the parties and taking into consideration the averments made in the claim so projected in this petition, this Court finds that virtually, the prayer in this petition is nothing but a request for issuance of direction to the respondent-State to get an FIR registered against respondent no.4, primarily on the ground that while taking advantage of her being a divorcee, respondent no.4 has established physical relations with her on the pretext that he (respondent no.4) will solemnize marriage with the petitioner. However, in view of judgment of Hon'ble Supreme Court in **Skiri Wasu Vs. State of Uttar Pradesh and others, 2008(1) RCR (Criminal) 392**, no such directions can be issued by this Court in the present petition under Section 482 Cr.P.C. particularly when the threat perception of the petitioner has been reviewed by the concerned police authorities from time to time.

There are different status reports/affidavits filed on behalf of the respondent-State from time to time, which suggest that the matter was

duly looked into by the police apart from initiating disciplinary proceedings against respondent no.4, for which, the punishment of forfeiture of three years of service was awarded upon respondent no.4. As regards the allegation of threat to the life and liberty of the petitioner, the police authorities have already been reviewing the security concern of the petitioner from time to time and while reviewing the security of the petitioner, it has been found that there is no threat perception to the petitioner. But still, a PCR had been directed to be present near the house of the petitioner and the patrolling party had been directed to patrol the area on regular intervals while keeping special check on the petitioner.

Therefore, no further direction is required to be issued in the present petition and the same is hereby dismissed.

However, considering the fact that respondent no.4 is working as Inspector with the police department, in case the petitioner still finds that she apprehends any threat to her life and liberty, she will be at liberty to approach the authorities concerned. Respondent no.2 shall look into the security aspect of the petitioner and her children in case any fresh representation is submitted by the petitioner along with relevant material in support of her any such claim and shall act in accordance with law.

December 17, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No