

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-44048-2016 (O&M)
Date of Decision:- 19.10.2019

Mamta ... Petitioner
Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Charanjeet Kaur, Advocate, for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Gourave Bhayyia Gilhotra, Advocate,
for respondents No.4, 7 to 12, 15 to 18.

GURVINDER SINGH GILL, J.

1. The petitioner/victim Mamta approached this Court seeking issuance of a direction for taking appropriate legal action against respondents No.4 to 20 in respect of her alleged rape committed on 26.4.2012 and 27.4.2012.
2. In the present case, initially DDR No.45, dated 27.4.2012 was lodged at the instance of Ramphal, father of the victim wherein he alleged that his daughter Mamta, aged 21 years had left her house without informing anybody and although they had tried to look for her but she could not be found.
3. The petitioner has averred that the police was trying to shield the culprits and had not taken any action on the basis of the aforesaid DDR.

4. The State filed its reply by way of affidavit of Rahul Dev, HPS, Deputy Superintendent of Police, Sonipat wherein it has been deposed that pursuant to lodging of DDR No.45 dated 27.4.2012, the matter was inquired into and it was found that Deepak and Kanta were involved in abducting the petitioner's daughter and against whom FIR No. 345, dated 3.9.2012, was lodged. It is not disputed that subsequently, after challan was presented, the learned Magistrate formed a *prima facie* opinion that offence under Section 376 IPC was also made out and committed the case to the Court of Sessions on 21.4.2017 since offence under Section 376 IPC was exclusively triable by the Court of Sessions. However, the aforesaid order was challenged by the accused by way of filing CRR-1711-2017 and operation of the said order has been stayed by this Court.
5. In view of the aforestated position, wherein although FIR for offence under Section 365, 506 IPC only was lodged but subsequently the Illaqa Magistrate, upon *prima facie* finding that offence under Section 376 IPC is made out, committed the matter to the Court of Sessions, no further direction is required to be issued in the matter as omission to add offence under Section 376 IPC was the main grievance of petitioner stood addressed by order of committing Magistrate. The petition, as such, is dismissed having been rendered infructuous.

October 19, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No