

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-39859 of 2019

Date of Decision: 03.10.2019

Jaspreet Kaur

...Petitioner(s)

Versus

State of Haryana & others

...Respondent(s)

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

Present:- Mr. S.K. Sinha, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Manish Verma, Advocate
for respondent no.4.

Mr. Ajay Sharma, Advocate
for respondent no.5.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 CrPC is for issuance of directions to respondents no.2 and 3 to register an FIR under Sections 363, 366, 506 IPC against respondents no.4 and 5.

As per the petitioner, respondent no.4 – Harinder Singh is her neighbour and their houses share a common wall. About 4 years back, respondent no.4 scaled the common wall during night and entered in her room, where she was sleeping with her younger siblings. He covered her face and forced himself upon the petitioner and sexually assaulted her. He

had threatened the petitioner of dire consequences in case she will disclose this incident to anyone. On another day, when he again tried to cross the common wall, father of the petitioner caught and thrashed him. Thereafter, though respondent no.4 did not trouble her during night, but he started stalking her as and when she struck outside her house along with her friends. In this manner, mostly she was confined to her house, so as to avoid respondent no.4. It is averred that respondent no.4 is a history sheeter and is involved in number of criminal cases. The people in the area are afraid of him due to his anti-social activities. On 29.04.2019 at about 11-00 A.M., the petitioner went to a nearby Lord Shiva temple for worship along with her brother and when her brother went to fetch something, respondent no.4 finding the petitioner alone, suddenly appeared and asked her to accompany him in his car. The petitioner was threatened that in case she will not accompany him, he will kill her brother. Out of fear, the petitioner boarded the car, where two other persons were sitting, one of whom was Kartik Goel, respondent no.5, whereas the other unknown person was driving the car. They have taken the petitioner to Mata Mansa Devi temple, Panchkula, where arrangements of marriage were already made. The *Pujari* performed their marriage hurriedly. Thereafter, she was taken to Kharar by respondent no.4 in a car being driven by respondent no.5. On 02.05.2019, the petitioner was taken to a lawyer's office in the Court premises at Panchkula and was made to sign some papers including blank sheets. After appearing before the police, the petitioner and respondent no.4 were sent to Safe House for Runaway Couples, where they stayed for about one month till 05.05.2019.

Learned counsel for the petitioner has argued that the petitioner has not married with respondent no.4 voluntarily. Rather it was all done under duress. She was made to sign some blank papers. The antecedents of respondent no.4 are doubtful. He has a criminal background, as there are other cases pending against him. He has further submitted that an FIR No.136 dated 30.04.2019 under Section 366 IPC was also registered against respondent no.4 at the behest of Bhupinder Singh (father of the petitioner) wherein similar allegations were made against respondent no.4, however, respondent no.4 has not been charged with the appropriate sections, as per the allegations so levelled against him. Therefore, considering the gravity of offence, necessary directions be issued to register an FIR under Sections 363/366/506 IPC against respondents no.4 and 5 and their accomplices.

On the other hand, learned counsel for respondent no.4 has argued that the petitioner is the legally wedded wife of respondent no.4.

I have heard learned counsel for the parties.

The argument of learned counsel for respondent no.4 that the petitioner is the legally wedded wife of respondent no.4 is of no relevance at this stage, as the present petition is confined to protection of life and liberty of the petitioner in the background of the facts and circumstances of the case. Respondent no.4 has other remedies to invoke for redressal of his grievance, if any, and therefore, no such observation or direction can be issued with regard to validity of marriage of petitioner and respondent no.4.

This Court has been informed that a separate petition i.e. CRWP-793-2019 titled as *Harinder Singh Vs. State of Haryana & others*

was filed by Harinder Singh, respondent no.4, so as to get the petitioner released from the illegal custody of her parents, whereupon, the petitioner was produced in Court and considering her willingness, she was allowed to accompany her father - Bhupinder Singh, who had given an undertaking that proper care of the petitioner shall be taken by him (Bhupinder Singh) and she will not be put to any physical maltreatment in any manner. Accordingly, the petition was disposed of, having been rendered infructuous and the petitioner was allowed to stay with her parents in the background of undertaking of Bhupinder Singh.

On 18.09.2019, when the present case was taken up, following order was passed by this Court:-

“Counsel for the petitioner states that due to typographical error in the memo of parties, respondent No.1 is wrongly mentioned as State of Punjab, whereas it should be State of Haryana, as no relief is being claimed against the State of Punjab. He prays for necessary correction in the memo of parties.

Rectification is allowed.

Office to carry out necessary correction in the memo of parties as well as in the cause list.

Counsel for the petitioner, on instructions from the petitioner who is present in the Court, states that because of some compromise dated 05.05.2019 attached with the petition as Annexure P-1, the petitioner is not being allowed to stay in the village with her parents. She has no other shelter, but because of the so called compromise before the panchayat (Annexure P-1), she is moving pillar to post to have shelter.

Mr. Bhupinder Singh, who is father of the petitioner, is also present in the Court. He has been identified by the counsel for the petitioner. Mr. Bhupinder Singh has been

interacted and he states that he is inclined to take his daughter to his house, but panchayat is not going to allow him to take his daughter with him because of the compromise (Annexure P-1).

Notice of motion for 01.10.2019.

Dasti as well.

At the asking of the Court, Ms. Gaganpreet Kaur, AAG, Haryana, accepts notice on behalf of the State-respondents No.1 to 3.

Let requisite number of copies of paper book be given to learned State counsel during the course of the day.

The Superintendent of Police, Panchkula, is directed to ensure that the petitioner is allowed to stay conformably with her parents without any interference by the signatory on the compromise (Annexure P-1). He shall direct the SHO concerned to provide safe entry to the petitioner in village.

The Deputy Commissioner, Panchkula, is also directed to look into the matter and submit status report in the case as well locus of such like compromise restricting mobility of the aggrieved person, on the adjourned date.

Copy of this order be given to the learned State counsel under the signature of Bench Secretary of this Court.

Petitioner as well as her father are present in Court.

The petitioner and respondent no.4 belong to same village i.e. Village Lohgarh, Tehsil Pinjore, District Panchkula and therefore, on the basis of mutual consent of the parties, the Gram Panchayat of the village had taken a decision (Annexure P-1), to the effect that since the petitioner and respondent no.4 are from same village, the families of both the parties i.e. the petitioner and respondent no.4 shall not keep them with themselves in the village. In order to mitigate the decision of the Gram Panchayat,

Lohgarh, this Court had directed the Superintendent of Police, Panchkula to ensure that the petitioner is allowed to stay comfortably with her parents without any interference by the signatories to the compromise so arrived before the Gram Panchayat and SHO concerned was directed to provide safe entry to the petitioner in the village.

This Court has interacted with the petitioner and she has shown her inclination to stay with her parents. It has been apprised to this Court that though the petitioner has joined her parents, but still she has an apprehension that respondent no.4 or his family can cause harm to her.

Accordingly, the present petition is disposed of with a direction to respondent no.3 – SHO, Police Station Pinjore to ensure that no harm is caused to the life and liberty of the petitioners at the hands of respondents no.4 and 5 and in case there is any threat to the life and liberty of the petitioner, suitable action be taken against them in accordance with law.

October 03, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No