

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

CRM-M-49443 of 2019.

Decided on:- November 22, 2019.

Jaswinder Kaur.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. Ashok Bhardwaj, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 482 Cr.P.C. for issuance of a direction to the respondents No.1 to 3 to conduct a fair and independent investigation in FIR No.194 dated 02.10.2019 under Section 376 read with Section 34 IPC registered at Police Station, Dirba, District Sangrur against respondents No.4 and 5.

As per the FIR, the prosecutrix is a married lady and has two sons. On 01.10.2019 at about 02.30 P.M. when she was going to village Chatthe Back on foot, she noticed respondent No.4 Sukhwinder Singh was coming on his motorcycle from the side of village Dhandoli Kalan. Since he was known to her, she stopped him and when asked, he (Sukhwinder Singh) told that he was going to village Chatthe Back. Therefore, she sat on his motorcycle. However, when he turned the motorcycle from the passage of canal towards village Chhahar side, she asked him that where he was taking her.

Respondent No.4 told her that due to damaged passage, he will go from village Chhahar side. In the way, he stopped the motorcycle on the bank of the canal, where respondent No.5 Arshdeep Singh was already present. She got perplexed and when she made an attempt to run away, both of them caught her from her arms and respondent No.5 Arshdeep Singh took her in the trees on the bank of the canal and forcibly committed rape upon her. Thereafter, both accused ran away from the spot. The complainant called Shishpal Singh, Ex-Sarpanch of village on phone and after some time, Shishpal Singh and Gurpal Singh came there and got her admitted in Sangrur Hospital, where the doctor conducted her medical and discharged her.

Learned counsel for the petitioner has argued that the police is not investigating the FIR fairly and independently. The provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the SC/ST Act) have not been incorporated in the FIR. The petitioner and respondent No.4, both belong to the scheduled caste category as they are from the same village. In this manner, the private respondents were having knowledge that the petitioner belongs to the scheduled caste category. However, the police in order to help the respondents has not intentionally incorporated the provisions of Section 3 of the SC/ST Act. Therefore, fair investigation is not being carried out in the case.

I have heard learned counsel for the petitioner.

Perusal of the paper book shows that the medico-legal examination of the petitioner was conducted at Government Hospital-cum-Medical College, CH, Sunam on 01.10.2019 and the FIR was registered on

02.10.2019. However, the medico-legal report (Annexure P-4) reveals that the opinion on the medical examination of the prosecutrix is yet to come as the doctor has opined that it would be given after the report of chemical examination. Therefore, this Court finds that issuance of any direction at this stage, when the FIR was registered only on 02.10.2019 would tantamount to interference in the investigation. Since the matter is already being investigated by the police, no ground to interfere in the investigation is made out.

The present petition is, accordingly, dismissed.

November 22, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No