

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

**CRM-M No.22851 of 2020
Date of Decision: 11.09.2020**

Munish Kumar Garg @ Mani

.....Petitioner

Vs

State of Punjab and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. C.M. Munjal Advocate
for the petitioner.

Mr. Ramdeep Pratap Singh, D.A.G., Punjab
for respondents No.1 and 3.

Mr. Anish Gautam, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J.

[1]. The case was taken up for hearing through video conferencing.

[2]. Petitioner seeks quashing of order dated 06.08.2020 passed by the Addl. Sessions Judge, Mansa and also for issuance of appropriate directions that in the event of any contemplation for registration of criminal case against him, an advance notice be given to him in the facts and circumstances of the case.

[3]. Learned counsel for the petitioner made the following submissions:-

(i) Petitioner and respondent No.2 are residents of the same town i.e. Mansa and are neighbours. Both are married having children. Respondent No.2 was not happy with her matrimonial life. Initially the petitioner and respondent No.2 were having family relations. Petitioner and husband of respondent No.2 were having similar business. With the passage of time, petitioner and respondent No.2 developed some relations.

(ii) Petitioner and respondent No.2 jointly filed CRWP No.4482 of 2020 in the High Court for protection qua their lives and liberties from being invaded by husband of respondent No.2 and other family members. The petition was accompanied by affidavit of respondent No.2 as well. The said petition was got dismissed as withdrawn vide order dated 07.07.2020 with liberty to the petitioners therein to approach the appropriate authority for redressal of their grievances.

(iii) Petitioner along with respondent No.2 also filed a criminal complaint against husband of respondent No.2 and others in the Court of Sub-Divisional Judicial

Magistrate, Sunam on 04.07.2020. Now the said complaint has been adjourned for 09.11.2020 for preliminary evidence of complainant-party.

(iv) Respondent No.2 has filed a complaint against the petitioner before the SSP, Mansa on 16.07.2020 with the allegations that her marriage was solemnized with Rakesh Kumar on 12.09.2005 according to Hindu rites and ceremonies. Out of this wedlock, two children took birth. Wife of the petitioner was having friendly relations with respondent No.2. Their children were also of the same age groups. They used to meet very often. When respondent No.2 narrated her problem to the wife of petitioner, she told the same to the petitioner for getting the problems solved.

(v) In the aforesaid complaint, respondent No.2 further stated that she being superstitious came in the talks of wife of petitioner and started believing the petitioner, who used to bring Talisman (*Taveej*) and also used to provide her *parshad*. Slowly, the petitioner got the complainant involved in his talks. In the month of February 2020 i.e. on 09.02.2020, the petitioner took her and kept her outside for few days. Family member of respondent No.2 made their best efforts to locate

her. On 12.02.2020, she came back home. On 14.02.2020, petitioner accepted his mistake before the Police in the presence of relatives and submitted a written compromise that in future, he will not repeat the same thing.

(vi) In the said complaint, respondent No.2 further stated on 30.06.2020, in the evening at about 3.00 p.m. the complainant was going to take her daughter back from the house of Mehndiwala. Petitioner met her on the way and offered her some *parshad*. Respondent No.2 being religious lady did not intend to disrespect the *parshad* and took the same. After consuming the same, she became unconscious and when she regained consciousness, she found herself in a Hotel at Chandigarh. On being objected, petitioner told her that since her marriage was not going well, therefore, he had an appointment with a Baba and kept her in the Hotel room upto 04.07.2020. Petitioner never allowed her to go outside, nor anybody was allowed to come inside the room. He used to lock the room while going outside. During this period, petitioner also got signatures of respondent No.2 on some blank papers and also committed rape upon her without her consent.

Petitioner also gave threats to kill children of respondent No.2.

(vii) Respondent No.2 further submitted that on 04.07.2020, petitioner brought her back in his house and in connivance with his wife Sonia, he kept her locked in a separate room. On 05.07.2020, in the morning, respondent No.2 found an opportunity to come out of the house when the main gate was found open. She immediately came to her parents house. She was so frightened that she could not narrate her parents immediately and on gathering courage, she came to the Police for lodging the complaint. Ultimately, a complaint was filed on 16.07.2020.

(viii) That the aforesaid complaint is still pending before the Police and the Deputy Superintendent of Police time and again calling the petitioner. Petitioner and respondent No.2 have lived in relationship on account of extra-marital affair. They have also filed a joint petition in the High Court for protection. Now respondent No.2 has filed the complaint on the asking of her husband and in-laws.

(ix) Husband of respondent No.2 also stated before the Police on 13.06.2020 that respondent No.2

was having illicit relations with the petitioner and on 30.06.2020, she had gone with the petitioner as per own will and from that day onwards, respondent No.2 will be responsible for her own profit and loss. She is an adult and is well aware about her welfare. Husband of respondent No.2 further submitted that no action be taken on the application and the same be filed.

[4]. In view of aforesaid submissions, learned counsel for the petitioner prayed that in the event of any contemplation for registration of a criminal case against the petitioner, an advance notice be given to him so as to enable him to avail his legal remedies in accordance with law.

[5]. Per contra, learned State counsel duly assisted by learned counsel for respondent No.2 submitted that infact, the blank papers got signed from respondent No.2 were utilized by the petitioner in some proceedings including filing of petition before the High Court and filing of criminal complaint. On 14.02.2020, the petitioner admitted that he had taken away respondent No.2 with a view to grab her property and had promised not to repeat any such mistake in future. A petition under Section 97/98 Cr.P.C. was filed by petitioner against husband of respondent No.2 and others seeking direction to official respondents to search respondent No.2 and produce her

before the Court as she was stated to be in illegal confinement of her husband and others. The said petition was dismissed by the Judicial Magistrate Ist Class, Mansa vide order dated 24.07.2020. Complaint dated 16.07.2020 filed by respondent No.2 is pending before the Police and a lawful action is expected to be taken by the Police. Petitioner is not entitled for any direction being an accused in the said complaint.

[6]. Having heard, learned counsel for the parties, I find that at this stage, the allegations and counter-allegations cannot be weighed straightaway, as the same would be subject to the material to be produced by the parties at an appropriate stage. The contention made by learned counsel for the petitioner that petitioner and respondent No.2 were having extra-marital affairs and have remained together at different places would be considered by the Police in view of the fact that respondent No.2 remained with the petitioner from 09.02.2020 to 12.02.2020 and thereafter, she remained in the company of petitioner from 30.06.2020 to 04.07.2020. In connection of occurrence of 30.06.2020, respondent No.2 has projected a version that petitioner offered some *prashad* to her and she accepted the same and thereafter she found herself in a room of a Hotel at Chandigarh. The *prashad* was offered in the village in District Mansa. The manner in which she found herself in a

Hotel at Chandigarh would be considered by the Police. Evidently, respondent No.2 remained in the company of petitioner on two occasions for some time. Filing of CRWP No.4482 of 2020 in the High Court and Criminal Complaint No.41 of 2020 would be considered in accordance with material to be collected by the Police.

[7]. At this stage, I am of the view that in the aforesaid facts and circumstances of the case, petitioner requires to be given advance notice in the event of contemplation of registration of any criminal case arising out of extra-marital affair between petitioner and respondent No.2. Consequently, this petition is disposed of with a direction to respondent No.2 (before whom, the complainant dated 16.07.2020 is pending) that in the event of contemplation of any registration of criminal case against the petitioner, he be given prior notice of seven days. It is made clear that this order is strictly confined to only a case arising out of complaint dated 16.07.2020 filed by respondent No.2 and shall not be construed to be a blanket order, if the petitioner is found involved in any other case.

September 11, 2020

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No