

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24387-2020
Decided on: 08.10.2020

Jyoti

.... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Kanwar Satbir Singh, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

Reply on behalf of the State by way of affidavit of Deputy Superintendent of Police, Rohtak has been sent up, by e-mail. A perusal of the same reveals that in compliance of the impugned order, FIR No.685 dated 24.09.2019, was drawn up against the petitioner, which is now pending investigation.

2. A revision has been preferred specifically against one stray direction passed by the Ld. Special Judge-cum-Additional Sessions Judge, Rohtak, in the impugned order dated 21.09.2019 (Annexure P-3), vis-a-vis regular bail granted to the applicant-Amit under Section 439 Cr.P.C in FIR No.122 dated 15.03.2019 lodged against him, by the prosecutrix/complainant in the said case.

The relevant impugned observations are as under:-

“xxx xxxx xxx xxxx

31. Copy of this order be sent to the Superintendent of Police, Rohtak for registering the FIR against the prosecutrix Jyoti for cheating and false case of rape against accused Amit.”

3. It has been argued on behalf of the petitioner that jurisdiction of the Ld. Special Judge in passing the detailed impugned order was essentially restricted to taking a decision whether or not it was a fit case for granting bail to the applicant on the basis of the allegations made against him and the material available against him. However, the Ld. Court went one step further and not only granted bail to the accused, but also directed registering of an FIR against the prosecutrix/complainant for cheating and lodging a false case against the applicant/accused Amit.

4. In all fairness, Ld. counsel for the State agrees that in this manner, the Ld. Court below certainly exceeded its jurisdiction concerning the bail application and virtually stepped into the shoes of the affected applicant, who in all propriety was the competent person to decide whether he ought to take any legal action against the prosecutrix for having caused him all the illegal harassment and suffering.

5. This Court is in full agreement with the aforesaid submissions. In fact this is an instance of unnecessarily burdening the Investigating Agencies, who are already overstretched, by directing registration of another FIR, not at the instance of the effected party himself, but by the Court, which ought to have acted neutrally in the matter of deciding the bail application on its merits, and ought not to have gone overboard in seeking to penalise the complainant in the concerned case in which the bail application had come up.

6. For the aforesaid reasons, the revision is allowed and the impugned direction contained in para 31 of the aforesaid order passed by the Ld. Special Judge-cum-Additional Sessions Judge, Rohtak dated 21.09.2019 is ordered to be quashed.

7. Consequently, the proceedings arising out of FIR No.685 dated 24.09.2019, also stand quashed. It is, however, clarified that nothing in this order shall tantamount to precluding the actual effected person, namely, Amit, from seeking his own remedies against the concerned prosecutrix whether civil or criminal, in accordance with law.

(SUDIP AHLUWALIA)
JUDGE

08.10.2020

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No