

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

CRM-M-2584-2021 (O&M)

Date of decision : 19.01.2021

Bhupender

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Siddharth Sanwaria, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.450 dated 26.11.2019 under Sections 25/54 of the Arms Act, 1959 read with Section 506 of the Indian Penal Code, 1860 read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Punhana, District Nuh.

Learned counsel for the petitioner would contend that the Prosecutrix (respondent No.2) and her family members have entered into a compromise and, therefore, prayed for quashing of the FIR.

Learned counsel for the State on instructions from ASI Kamal has stated that even after execution of the alleged affidavits qua the compromise, the petitioner had moved this Court for grant of regular bail which was dismissed as recently as on 01.12.2020. The petitioner has filed seven bail applications which were all dismissed and two of the bail petitions were filed before this Court which were dismissed as

offences against a minor and the minor had supported the case in her statement recorded under Section 164 of the Code of Criminal Procedure, 1973 and, hence, any alleged compromise between the parents of the Prosecutrix and the petitioner would be of no consequence. In fact, any statement or affidavit which might have been taken from the Prosecutrix also would be of no consequence.

I have heard learned counsel for the parties.

The present FIR was lodged on the complaint made by the Prosecutrix herself stating therein that the accused Bhupender i.e. the petitioner herein had wrong eyes on her since a long time and had made indecent gestures on seeing her and that she had ignored the same. However, on 20.11.2019 at about 11.00 a.m. she had gone to the forest to get some green fodder when all of a sudden the accused, Bhupender, came there and grabbed her. It is further the allegation that the accused, Bhupender, was carrying an illegal country made pistol and he forcibly raped the Prosecutrix by showing her the pistol and threatened her that if she told anybody, he would kill her, her brother and father. It was further alleged that she did not narrate this incident to anybody out of fear but on 21.11.2019, at about 3.00 p.m., the petitioner sent his brother Lakha Ram to her house and Lakha Ram informed the Prosecutrix that his brother, Bhupender, petitioner herein, was calling her. Her father is stated to have heard this and asked her as to why the petitioner, Bhupender, was calling her and, thereafter, she narrated the incident to her father. Her father is stated to have gone to the house of the petitioner and took along Khurshid son of Mir Khan. The petitioner is alleged to have insulted the father of the Prosecutrix and threatened him to go away otherwise he

would be killed. It has further been stated in the FIR that thereafter there were talks in the community, however, the community was not satisfied and hence the FIR was eventually lodged on 26.11.2019.

The Prosecutrix in this case has fully supported the case of the prosecution in her statement recorded under Section 164 Cr.P.C. The petitioner has placed on record the copies of undated affidavits of the Prosecutrix, her mother and father. All three affidavits are undated and have been got attested on 17.07.2020. A perusal of the affidavits reveals that they cast a doubt in the mind of the Court inasmuch as all the three affidavits have been signed or thumb-marked at three places on a single page. Though the contents of all the three affidavits are the same but the line spacing near the signatures/thumb impressions differ. Be that as it may, all this would be a matter of trial and cannot be gone into at this stage. The allegation in the present case is that of raping of a minor. The offence alleged is not only a heinous crime but also a crime against the society. No alleged compromise entered into by the parents or the minor Prosecutrix can be accepted.

In view of the above, the present petition is dismissed.

It is, however, made clear that any observation made herein shall not be deemed as an expression of opinion on the merits of the case.

19.01.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO