

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(Heard through VC)**

**Crl. Misc. 28522 of 2021 in/and
CRM-M- 36067 of 2021 (O&M)
Date of Decision: 7.9.2021**

Sandeep Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Manish Kumar Singla, Advocate
for the applicant/petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

JAISHREE THAKUR, J.

Crl. Misc. 28522 of 2021

The application is allowed and the statement (Annexure P/4) is taken on record.

CRM-M- 36067 of 2021

By way of this petition, the petitioner seeks quashing of the order dated 4.8.2021 passed by the learned Sessions Judge, Sangrur, in case SC No. 92 of 2.7.2020 titled as State Versus Arpinder Singh, vide which the application of the petitioner (victim/prosecutrix), for ex-examining her has been dismissed.

The facts in brief are after the death of the husband of the petitioner in the year 2016, respondent No.2, who was residing in her neighbourhood, started showing sympathy towards her and her children and told her that he wanted to marry her and would also adopt her children.

However, when the petitioner asked respondent No. 2 to marry her, he refused and as a result thereof FIR No. 38 dated 20.2.2020 under Section 376 IPC came to be registered against respondent No.2 at Police Station Bhawanigarh, at the instance of the petitioner. It is alleged that post registration of the aforesaid FIR, the whole family of respondent No.2, kidnapped the petitioner and her children and got performed marriage of the petitioner with respondent No.2 on 25.2.2020. Respondent No.2 and his family members had threatened the petitioner to make statement in favour of respondent No.2, failing which her minor children would be killed. Consequently, on 28.8.2020, the petitioner had given the statement in favour of respondent No.2 due to the aforesaid circumstances and under fear and threat issued by respondent No.2 to kill her minor children. It is only on the basis of the statement of respondent No.2 that regular bail was granted by this Court to respondent No.2. However, after the release, respondent No.2 and his family members had been continuously issuing threats to the petitioner to kill her minor children in case she did not agree to leave respondent No.2. In this regard, though respondent No.2 moved applications to the local police but no action has been taken thereon. It is averred that the petitioner had made the statement in the Court under fear of threat and to save the lives of her minor children and it is in this background the petitioner moved the application under Section 311 of the Code of Criminal Procedure to recall her for recording her statement, which stands dismissed by the impugned order.

Learned counsel for the petitioner would argue that the court below has gone wrong in dismissing the application filed by the petitioner

as she wanted to bring the real facts to the notice of the court. It is submitted that the petitioner had earlier made the statement under threats given to her by respondent No.2 and his family members. It is further submitted that under Section 311 of the Code of Criminal Procedure the courts have vast powers and, therefore, in order to do complete justice, the court below ought to have allowed the application.

Notice to the official respondent only.

Learned counsel appearing on behalf of the respondent—State accepts notice, who, while supporting the impugned order, would submit that a well reasoned order has been passed by the court below and as such no interference is called for. It is submitted that in fact respondent No.2 never issued any threat to the petitioner and rather she is a blackmailer lady and had been demanding ₹10 lakhs from respondent No.2. It also submitted that falsity of the FIR stands established from the fact that the petitioner refused to get herself medically examined when she was produced before the Medical Officer. She herself had made statement before the trial Court as well as before the Additional Chief Judicial Magistrate, Sangrur, regarding innocence of respondent No.2 without any pressure, coercion or threat from any quarter.

I have heard learned counsel for the parties and have also perused the impugned order and find no ground to interfere with the impugned order.

In the statement made by the petitioner before the Additional Chief Judicial Magistrate, Sangrur, under Section 164 of the Code of Criminal Procedure, she did not support the prosecution case. From the

record, it is apparent that the petitioner got her statement recorded as PW-1 in Court on 28.8.2020 and the present application for recalling was moved by her on 5.1.2021 that is after more than four months. No cogent explanation is coming forth as to the delay in moving the application. Moreover, only vague allegations much less specific allegation regarding threat have been spelt out in the application. No ground for interference is made out. Dismissed.

7.9.2021*prem***(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned :	Yes
Whether Reportable :	No