

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

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CRM-M-43947-2021 (O & M)
Judgment Reserved on 25.10.2021
Date of decision :18.11.2021

Lakhvir Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Dr. Rau P.S. Girwar, Advocate
for the petitioner.

SUVIR SEHGAL, J.

Vide instant petition filed under Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks quashing of FIR No.105 dated 26.12.2016 registered for offence under Section 376, 420, 201, 120-B IPC, 1860, at Police Station SGN Dev Thermal Plant, Bathinda, Punjab, Annexure P-3, and all subsequent proceedings including charge-sheet dated 20.08.2021, Annexure P-12.

As per the version of the prosecution, FIR, Annexure P-3, has been registered on the complaint of the prosecutrix and reads as under:-

*“Complaint copy, “Complaint Number
Office of Senior Superintendent of Police Bathinda
Number 1040/WC/16 Dated 25-10-16 To The Hon’ble
SSP Bathinda Subject Action Against Lakhvir Singh Son
of Late Amarjit Singh, His Mother, friend Pritpal Singh
And His Cousin Gurdeep Singh Resident of Kotshamir,
Please take legal action against for cheating by
physically abusing me and harassing mentally. I K.....
K..... daughter of A..... S.... son of Ram Singh Resident
#436 Street No.4 Gurbaksh Colony, Patiala, Now at Flat
No.437, Block No.10 DD Mittal Tower Multania Road,
Bathinda, I post-graduated from Tangori, Mohali. 2. In*

2010 at SUS Tangori Mohali I Was Doing B-Pharmacy. A friend of mine Harpreet Singh Chahal from Kotshmir who was studying in my college with me who was ill for a long time after recovered from illness he organize a party at Mittal Mall Bathinda. I had a party at Mall Bathinda in which I joined Harpreet Singh's friend Lakhveer Singh from Kotshmir. After the party was over Lakhveer Singh came to drop me off at bus stand Bathinda where he took my mobile number and said that you should tell me when you reach Patiala. After that there was talk on the phone and I came to Bathinda again on November 9, 2011 to meet Lakhveer Singh. Lakhveer Singh and me Stayed at Hotel Handi near lake no.3 Bathinda. He cheated behalf of marriage and had physical relation with me. I used to visit Lakhveer Singh once or twice a month in Bathinda and meet him in different hotels. After that on April 2, 2011 Performed Anand Karaj at Gurdwara near Bus stand at Zirakpur. A friend of his, Gurdeep Singh alias Deep, a resident of Kotshmir and a lawyer Roxy, a resident of Chandigarh were present. The entire record of the ceremony is available at Gurdwara Sahib Zirakpur. After this we stayed for two nights in a hotel in Chandigarh and after that I came to my home in Patiala and Lakhveer Singh came to his village Kotshmir in June 2011. I Lakhveer Singh and his nephew Jashandeep Singh went to pay homage at Sri Amritsar Sahib (Harmander Sahib). After that I went to Patiala and Lakhveer Singh and his nephew Jashandeep Singh came to Bathinda. I found out about Lakhveer Singh's family that he has four sisters out of which two Married and two Mandeep Kaur and Veerpal Kaur were Un-married who often talked to me on the phone then in August 2011 Lakhveer Singh's Birthday we stayed together in a hotel in Ludhiana which is close to Clock tower (Ghanta Ghar). Until May 2012 we used to stay together in hotels in different cities of Sri Amritsar Sahib Ludhiana Bathinda. After all this my B-Pharmacy was completed and I said I told Lakhveer Singh that now we can tell about marriage in our own house but Lakhveer Singh said that I can't tell in my house about this marriage. We will have to go abroad. I asked them to go abroad at my home. They refused to let me go abroad. Then Lakhveer Singh asked me to come to Bathinda and stay together. But I refused Lakhveer Singh at the time when I became pregnant in July and Lakhveer Singh came to Patiala and gave me an abortion kit. After that Lakhveer Singh went to Hong Kong for a week and on August 2012 I got admission in M. Pharmacy at Adesh College (Bhuchio) and started living in a hostel. Lakhveer Singh got a rent portion at 100ft Road Bathinda and lived in a rented house together. After this Lakhveer Singh's friend Kiran who used to work in a saloon near Ghoda Chowk

Bathinda we used to meet at her house during which I got pregnant again and Lakhveer Singh forcibly operated on me. Meanwhile I picked up another phone from Lakhveer Singh which was beyond my knowledge and I found out that We were arguing a lot about Lakhveer Singh talking to other girls and I asked Lakhveer Singh to tell me about marriage at home. Lakhveer Singh assured me that I would tell him about my house after the marriage of my sister Veerpal Kaur and assured that he would not talk to any other girl again after that we rented a house in Guru Gobind Singh Nagar Bathinda. We lived together in a rented house for two years. In December 2012 Lakhveer Singh took me to Chintpurni Mata and Macloedganj. These days I got a staff flat at Aadesh Hospital Bhucho. Lakhveer Singh to come regularly there and his friend Pritpal Singh was with him. Then one day Lakhveer Singh forced me to have physical relation with his friend Pritpal Singh and beat me up for protesting and drinking alcohol. A few days later Lakhveer Singh apologized to me and said that he would not make such a mistake again In May 2013 we went for a trip in Dalhousie and even there Lakhveer Singh beat me. When I came back from Dalhousie I told Lakhveer Singh's younger sister Mandeep Kaur about the beating by Lakhveer Singh and she got involved and made patchup with us. In August 2013, Lakhveer Singh's friend Gurdeep Singh alias Deep and Gurdeep Singh's friend Amandeep Kaur visited Mussoorie. I became pregnant in January 2014. Lakhveer Singh asked me to have an abortion but when I refused, he beat me and kicked me in the stomach, so I had a miscarriage. In February 2014, we booked a honeymoon tour from a travel agency and toured Kullu Manali. Then in March 2014, when I refused to have sex, Lakhveer Singh severely beat me. Then in August 2014 we went to Jaipur with a tour package from a tour company. In October 2014 Lakhveer Singh introduced me to his aunt's daughter Harmeet Kaur alias Mana from Ferozepur. And he assured me that his house knows everything about me. In November 2014, we went to Shimla with Lakhveer Singh's friend Babbu from Bathinda. In February 2015, Lakhveer Singh invited me to his sister's wedding at Green Palace Bathinda and reunited me with his family. In March 2015, Lakhveer Singh's father fell ill and was admitted to Aadesh Hospital Bhucho. Lakhveer Singh's father died due to illness and hospital bills and dead body saving certificate are my sign. This is how Lakhbir Singh introduced me to Manpreet Kaur alias Mannu, a resident of Bamala who used to do Aadesh College GNM. Then in April 2015 I paid him to buy a car for myself and he fraudulently bought the car in his name When I spoke to return my car, Lakhveer Singh came to my flat at Adesh Hospital

and beat me and hit me in the head with a bottle which I had complained to the helpline number 181. The mistake that can easily get your claim denied is to fail His friend Pritpal Singh was with him in all these cases. In May 2015, I went to Lakhveer Singh and his friend Pritpal Nainital and there they beat me. In August 2015, Lakhveer Singh and Pritpal Singh went to Chandigarh to get another passport for Lakhveer Singh, where we paid homage to Sri Anandpur Sahib and Naina Devi. In October 2015, I became pregnant again. And then he forced me to have an abortion. After that we met every time in Chandigarh and every time Lakhveer Singh was accompanied by his friend Pritpal Singh. In May 2016 we all three us went to Shimla. In June 2016, I went to Chandigarh with Lakhveer Singh and his aunt's daughter Harmeet Kaur alias Mana. After the death of Lakhveer Singh's father, I again asked him to tell me about our marriage at home So he flatly refused and said that I got married to you for a time spend. In the meanwhile I had filed an application against it to SSP City Bathinda on dated 9/8/2016. When Lakhveer Singh came to know about this application, he started threatening me and my family on the phone. He then assured me that after this I would not harass you in any way which is why I had written my statement on the date of this application on the dated 03/09/16. I do not want to take any action on this application at this time, if any complication I would like complaint again. After this on the 19/11/16 Navneet Kaur resident of Chandigarh gave me call from no.76890-00058, 97795-11311 my mobile number 90569-50008 that Lakhveer Singh was staying with her in Chandigarh And threatened to kill her if she left Lakhveer Singh because she would marry Lakhveer Singh, That Lakhveer Singh and I have lived together since 2010 And as many tours as we can get outside, both the cars Honda City and i20 in CCTN not complete brief of case, separate copy of complaint attach here. He sold Honda City car which all expense on car by me our parents are Gazetted officer retired. The total cost is around Rs.40 lakhs. Lakhveer Singh has cheated my prestige from 2010 to till date, So please take strict legal action against Lakhveer Singh and his friend Pritpal Singh alias Gandhi and his cousin Gurdeep Singh resident Kot Shamir and Navneet Kaur resident Chandigarh And let justice done to me yours faithfully SD/- K..... K.... M:-90569-50008”

Counsel for the petitioner has submitted that the petitioner married the prosecutrix and has placed reliance upon a certificate dated 22.04.2011, Annexure P-1, issued by a Gurudwara Sahib, as well as letter dated

22.04.2011, Annexure P-2, and affidavit dated 29.10.2016, Annexure P-13, jointly signed by both of them. He has placed reliance upon interim order dated 23.08.2021 passed by this Court in CRM-M-34144-2021 titled as **Anupam Mahajan and others versus State of Punjab and another**, judgment of Chhasttisgarh High Court in **Dilip Pandey and others versus State of Chhattisgarh**, Law Finder Doc ID 1872414 and judgment of the Supreme Court in **Independent Thought versus Union of India and another** Law Finder Doc ID 908220 to urge that sexual intercourse or sexual act by a man with his own wife not below the age of 18 is not rape and the Court has erred in taking cognizance of the allegations leveled in the complaint.

I have considered the submissions of counsel for the petitioner.

It is evident from the challan filed by the Investigating Agency that the petitioner arranged a fake marriage with the prosecutrix and by taking advantage of her innocence, repeatedly committed sexual assault upon her from 2011 to 2016. It has been further found that the prosecutrix became pregnant thrice and he repeatedly forced her to abort the child and thus destroyed the evidence. He misled her and kept on reassuring her that he will take her home and inform his family about their relationship. After the prosecutrix expired in a road accident in January, 2017, he filed an application seeking discharge which has been dismissed by the trial court vide order dated 10.08.2021, Annexure P-11, and charge has been framed against the petitioner on 20.08.2021, Annexure P-12, under Sections 376, 420 and 201 IPC. The prosecution evidence has started and a Head Granthi has appeared in the witness-box and deposed that there is no record pertaining to the marriage of the prosecutrix with the petitioner in the Gurudwara Sahib, Zirakpur. The documents being placed reliance upon by the counsel for the petitioner regarding the marriage would, therefore, be a subject matter of trial.

Allegations leveled in the impugned FIR do make out commission of a cognizable offence. Not only this, it is further apparent from the challan that the petitioner never co-operated with the investigation, rather he was declared as a Proclaimed Offender by the Court of JMIC, Bathinda.

Application for discharge having been dismissed, challan having been presented and the trial being underway, the instant petition seeking quashing of the FIR as well as the charge-sheet cannot be entertained and is accordingly dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case and the trial court shall proceed with the trial uninfluenced by any observation made hereinabove.

18.11.2021
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No