

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

115

CRM-M-48799 of 2021
Date of decision:23.11.2021

Kapil and another

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Arvind Kashyap, Advocate
for the petitioners.

SUVIR SEHGAL J.

Vide the instant petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioners seek quashing of FIR No.41 dated 24.02.2021 (Annexure P-1) registered for offences under Sections 342, 376 (2)(n), 506, 34 of Indian Penal Code, 1860 (for short "IPC") at Police Station Women Bahadurgarh, District Jhajjar (Haryana) and charge-sheet dated 01.10.2021 (Annexure P-2) ordered by learned Additional Sessions Judge, Jhajjar. Another prayer has been made for direction to the official respondents to direct further investigation into the matter by an independent agency or by an officer not below the rank of Superintendent of Police.

FIR (Annexure P-1) has been registered on a complaint by the prosecutrix on the allegation that Kapil (petitioner No.1) son of Mahesh Kumar (petitioner No.2) lived with her for three years and on promising to get married to him, kept her in Gulmohar Hotel, from 01.02.2021 for 22-23 days. It has been alleged that he is now harassing her and on her refusal to

continue with the relationship, has threatened to kill her. When the complainant brought these facts to the notice of his father-petitioner No.2, he has also threatened to kill her and forbade her to do anything.

Counsel for the petitioners has been heard.

The allegations levelled against the petitioners are serious. The prosecutrix has alleged that petitioner No.1 had physical relations with her, promised to get married to her and has been threatening her, on her refusal to continue with the physical relationship. Petitioner No.2 is also alleged to have extended threats to her, despite being aware of the situation. The allegations have been supported by the prosecutrix, in her statement (Annexure P-6) recorded under Section 164 Cr.P.C. on 25.02.2021. The prosecutrix has further stated that Kapil had even followed her to her hometown, Kanpur and had assured her that he will divorce his wife and get married to her and till then, they will stay together in a hotel. Reliance placed by counsel for the petitioners on the undated representation (Annexure P-3) claimed to have been sent by petitioner No.2 to the Superintendent of Police, suggesting that his son has been honeytrapped, will remain a subject matter of adjudication, before the trial Court. The mere fact that the accused-petitioner No.1 had used protective measures at the time of sexual relations, as has been mentioned in the medical report dated 24.02.2021 (Annexure P-7), cannot lead to the conclusion that the prosecutrix was a consenting party, particularly, in view of the fact that the prosecutrix had in the history narrated to the doctor stated that petitioner No.1 “persuaded her for sexual intercourse in the name of marriage”. It is,

therefore, apparent that the consent of the prosecutrix, had been obtained by misleading her, on the false promise of marriage.

Considering the fact that the accusation against the petitioners are serious, offence alleged is grave and charge having been framed against them, under Sections 342, 376(2)(n) and 506 IPC read with Section 34, IPC, this Court is of the opinion that the FIR cannot be quashed in exercise of extra ordinary jurisdiction under Section 482 Cr.P.C. Finding no merit in the petition, it is ordered to be dismissed.

Needless to mention, any observation made herein shall not be construed to be an expression of opinion on the merit of the case and the Trial Court shall proceed with the matter uninfluenced by any observation made hereinabove.

(SUVIR SEHGAL)
JUDGE

November 23, 2021
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No