

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

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(Through Video Conferencing)

CRM-M-49020-2021 (O&M)

Date of decision: 06.12.2021

Ram Bhateri

.....Petitioner

Versus

Deepak @ Lara and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Surinder Gaur, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

Learned counsel for the petitioner is seeking transfer of case FIR No.144 dated 22.06.2020 under Sections 304-B, 306 and 506 IPC registered at Police Station HSIIDC Barhi, District Sonipat titled as 'State of Haryana Vs. Deepak @ Lara' from the Court of Shri Salender Singh, ASJ/Fast Track Court, Sonipat to any Court of competent jurisdiction at Rohtak or another suitable place.

On the last date of hearing, learned counsel was asked to file an affidavit with regard to the allegations levelled against the trial Court. Affidavit on behalf of the petitioner has been filed today and perused.

Report of the trial Court was also called for, in the wake of the allegations levelled that the trial Court had with an ulterior motive and after conniving with the accused *suo moto* advanced the hearing of the case from 20.12.2021 to 15.11.2021.

Report of the learned trial Court along with zimni orders has also been received and perused.

As per the report received from the learned trial Court, it stands revealed that on 09.11.2021, the case was indeed adjourned to 20.12.2021, however, soon thereafter it was brought to the notice of the learned trial Court, an order passed by this Court in CRM-M-6073-2021, wherein it had been directed that the learned trial Court would endeavour to get the evidence of the complainant recorded before 22.11.2021 and hence in the wake of the orders of this Court, the hearing of the case was advanced to 15.11.2021. It would be relevant to reproduce the orders of the learned trial Court which read as under:-

“CNR No.HRSO010003512021

SC-26 of 2021

State of Haryana versus Deepak

Present:- **Shri Baldev Singh, PP for the State assisted by Shri Vedpal, Advocate.**

Accused Deepak in custody (Produced through VC) represented by Shri Sumit Chaudhary, Advocate proxy for Shri Pankaj Tyagi, Advocate.

No PW is present. Exemption application of PWs Ram Bhateri, Shamsheer and Rajpal has been moved. Heard. In view of the reason mentioned in the application and in the interest of justice personal appearance of these witnesses is exempted for today only. Learned counsel for the complainant is directed to produce PWs Ram Bhateri, Shamsheer and Rajpal before the court on 20.12.2021 for their evidence.

Exemption application of Shri Pankaj Kumar, Advocate has been moved. Heard. In view of the reason mentioned in the application and in the interest of justice personal appearance of Shri Pankaj Kumar, Advocate is exempted for today only.

CIS No.SC-26 of 2021

CNR No.HRSO010003512021

State vs. Deepak

Present:- **Shri Baldev Singh, Public Prosecutor for the State assisted by Shri Vedpal, Advocate.**

Accused Deepak in custody (Produced through VC) represented by Shri Sumit

Chaudhary, Advocate, proxy for Shri Pankaj Tyagi, Advocate.

At this stage, Ahlmad brings in the knowledge of the undersigned that evidence of the complainant is to be completed before 22.11.2021 as per the directions of the Hon'ble High Court passed in CRM-M-6073-2021 but inadvertently case has been fixed for 20.12.2021. So, case is prepond and is fixed for 15.11.2021 for evidence of the remaining prosecution evidence. Summons to the complainant through special messenger be issued for the date fixed.”

A perusal of the aforesaid orders dated 09.11.2021 clearly reveal that they were passed in the presence of not only the learned Public Prosecutor and the learned counsel appearing for defence but also in the presence of the learned counsel for the complainant, Mr. Vedpal. This Court, therefore, in the aforementioned facts and circumstances, fails to comprehend as to how the petitioner could now turn around and level allegations against the learned trial Court, and that too as serious as detailed out in the petition and reiterated by learned counsel for the petitioner while making his submissions before this Court to the effect that the learned trial Court had *suo moto* advanced the hearing of the case from 20.12.2021 to 15.11.2021 after conniving with the accused. The report along with zimni orders which has been sent by the trial Court is at complete variance with the allegations levelled, and the allegations levelled to say the least are contemptuous. Still further, this Court wonders as to what prejudice could be said to have been caused if the evidence of the complainant was concluded on 15.11.2021, and that too in the presence of the learned Public Prosecutor as well as the proxy counsel for the complainant. Rather, from a perusal of the zimni orders, learned trial Court seems to have accommodated the petitioner and other

prosecution witnesses on a couple of occasions as and when an application was moved by the learned counsel for the complainant seeking their personal exemption from appearance. It would be pertinent to observe that on 09.11.2021, the personal exemption from appearance of the complainant was sought on account of her as well another prosecution witness Shamsheer "suffering from covid-19 disease" and another prosecution witness Rajpal having gone out of station. Though, there was no medical report filed along with the said application on 09.11.2021 to substantiate the factum of the complainant and prosecution witness Shamsheer having tested positive for covid-19, still the learned trial Court accepted their prayer for exemption from personal appearance. It is not even the case of the petitioner that despite she and prosecution witness Shamsheer having tested positive for covid-19, they were still compelled to appear on 15.11.2021 for getting their evidence recorded.

This Court has no hesitation in observing that totally uncalled for and unwarranted allegations have been levelled against the learned trial Court, which as already noticed hereinabove are contrary to the material on record. This Court, thus, frowns upon the baseless allegations levelled, which without a doubt, have lowered the authority and dignity of the Court.

At this stage, learned counsel for the petitioner expresses deep regret for levelling baseless allegations without as much as confirming the circumstances which led to advancing the date of hearing from 20.12.2021 to 15.11.2021. He prays for withdrawal of the instant petition as well as requests the Court not to take any action qua

incorrect allegations levelled in the petition.

Ordered accordingly.

However, before parting the learned counsel would be well advised to be cautious in future.

06.12.2021

Vinay

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No