

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

133

CRM-M-553-2021

Date of decision :-13.12.2022

Davinder Singh @ Mani

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Mr. P.S. Grewal, DAG, Punjab,
for respondent No.1-State.

SUVIR SEHGAL, J.

By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, (for short - "the Code), petitioner has approached this Court seeking quashing of FIR No.0081 dated 16.03.2020, Annexure P-1, lodged for offences under Sections 363 and 366-A of IPC, 1860, at Police Station Sohana, District S.A.S. Nagar, Mohali.

Criminal law has been set in motion on the basis of statement of elder sister of 17 ½ year old girl (hereinafter referred to as "the prosecutrix") on the allegation that her sister has been enticed by one of their relatives, Davinder Singh @ Mani, present petitioner, on 09.03.2020 and despite persuasion, his family has not disclosed her whereabouts.

Counsel for the petitioner has contended that the petitioner has been falsely implicated and upon recovery, the prosecutrix as well as her sister-complainant gave statements, Annexures P-2 and P-3, stating that the prosecutrix, who has attained the age of majority, has not been allured by the petitioner and she had left her house of her own volition. Counsel submits

that on the basis of their statement, the petitioner was enlarged on regular bail by the learned Special Court, S.A.S. Nagar, Mohali vide order dated 08.05.2020, Annexure P-4. Still further, by making a reference to the petition filed under Section 09 of the Hindu Marriage Act, 1955, Annexure P-5, counsel urges that the prosecutrix was married to one Baljinder Singh, but she was not happy with the marriage and left her matrimonial home, forcing her husband to approach the Court seeking restitution of conjugal rights. He has sought quashing of the impugned FIR, Annexure P-1, on the ground that the petitioner is being unnecessarily harassed.

Per Contra, learned State counsel, upon instructions from HC Harvinder, while opposing the petition has made a reference to the short reply filed by way of an affidavit of Deputy Superintendent of Police, City-II, District S.A.S. Nagar, Mohali and has submitted that the prosecutrix was recovered from the custody of the petitioner and upon recovery, her statement under Section 164 of the Code has been recorded and her medical examination has been conducted, but the report is awaited. He submits that during investigation, as the prosecutrix was found to be a major, offence under Section 366-A, IPC, was deleted and Section 366, IPC, was added. He submits that *challan* has been presented before the Competent Court on 19.01.2021.

I have considered the arguments advanced by counsel for the parties.

In **Veena Mittal Versus State of Uttar Pradesh and others**, 2022 (1) R.C.R. (Criminal) 818, Hon'ble Supreme Court has held that when the High Court considers a petition for quashing of criminal proceedings under its inherent powers, the allegations in the FIR must be read as they stand and it is only if on the face of it, it appears that no offence

as alleged is made out, the Court is justified in exercising its power under Section 482 of Cr.P.C. The High Court is neither required to conduct a mini trial nor appreciate the evidence in exercise of powers under Section 482 of the Code.

Insofar as the facts of the present case are concerned, petitioner has been accused of enticing a young girl and there are specific allegations against him. He has been named in the FIR and the victim has been recovered from his custody. Upon conclusion of investigation, *challan* has been presented under Section 173 of the Code, which shows that the argument of the counsel that the petitioner has been falsely embroiled in the criminal case does not survive. The submission made by him by placing reliance upon the statement of the prosecutrix and the complainant, is not to be examined by this Court in the present proceedings, however, the evidentiary value of the same would be matter of appreciation at the time of final adjudication of the guilt or innocence of the accused. Material on the record shows that allegations *prima facie* constitute offences complained of and this Court does not intend to conduct any enquiry into the same in exercise of its inherent powers.

In view of the above discussion, this Court does not find any merit in the petition, which is ordered to be dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of case.

13.12.2022
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(SUVIR SEHGAL)
JUDGE

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