

121
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 31.01.2022

(1) CRM-M-4051-2020 (O&M)

Dr. Aprajita Nandra

.....Petitioner

vs.

State of Haryana and others

.....Respondents

(2) CRM-M-25430-2020 (O&M)

Dr. Navneet Magon

.....Petitioner

vs.

State of Haryana and others

.....Respondents

(3) CRM-M-43775-2019 (O&M)

Dr. Aprajita Nandra

.....Petitioner

vs.

State of Haryana and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: - Dr. Anmol Rattan Singh Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate,
for the petitioner in CRM-M-4051-2020 and
Mr. Ashwani Talwar, Advocate,
for the petitioner in CRM-M-43775-2019
and for respondent no. 2 in CRM-M- 25430-2020.

Mr. Sartej Singh Narula, Advocate,
for the petitioner in CRM-M-25430-2020
and for respondent no. 3 in CRM-M-4051-2020

Mr. Pawan Girdhar, Addl. AG, Haryana.

.....

AMOL RATTAN SINGH , J.

Case heard *via* video conferencing.

CRM-M-4051-2020

By this petition, the petitioner (complainant in FIR no. 38 dated 29.05.2019 registered at Women Police Station, Ambala, alleging therein the commission of offences punishable under the provisions of Sections 66(e) and 67 of the Information and Technology Act, 2000 and Section 354-A, 354-D (2), 376(2) (n) and 506 of the IPC), seeks a prayer that respondent no. 3 (accused therein) be restrained from harassing and pressuring her (complainant) and her family members, the allegation being that he was doing so in collusion with the State and its functionaries (i.e. respondents no. 1 and 2).

Notice of motion had been issued in this petition on 31.01.2020 with notice regarding stay also having been issued, after which, on 02.09.2020, an interim order had been passed directing all parties to abstain from making any statement to the press/media in the context of any litigation pending on the issue, till further orders.

That interim order has continued till date.

It is to be noticed that this petition has been tagged along with 'CRM-M-25430-2020' and 'CRM-M-43775-2019'. The petition bearing 'CRM-M-25430-2020' is one filed by the accused seeking quashing of the FIR registered, with 'CRM-M-43775-2019' being one seeking that the investigation in the matter be handed over to the Central Bureau of Investigation or to the Chandigarh Police or Punjab Police.

As already noticed in a common order passed in all these petitions on 20.12.2021, an affidavit had been filed by the SP, Crime, Headquarters, Panchkula, stating therein eventually that the investigation stood concluded and a cancellation report had been prepared which had also been approved by the ADGP, Crime, Haryana, but with it not submitted to the competent court on account of the pendency of these petition before this court.

Thus, in view of the above, as regards this petition, by which the complainant seeks that she and her family be not harassed by the accused and the State and its agencies (as alleged), it is disposed of with a direction that obviously with the investigation now stated to have concluded, there would be no harassment at all to either party, except for procedure in due course of law as duly laid down in the Code of Criminal Procedure, 1973, and that all parties concerned would be restrained from going to the media/social media platforms etc, and from making any comment on the matter as long as it remains sub-judice.

CRM-M-25430-2020' and 'CRM-M-43775-2019

As regards the remaining other two petitions, i.e. CRM-M-25430-2020 and CRM-M-43775-2019, it is considered appropriate to reproduce the order passed by this court on 20.12.2021, which reads as follows: -

"Pursuant to the order of this court dated 18.11.2021, an affidavit by way of a status report, dated 13.12.2021, has been filed by the SP (Crime), Headquarters, Panchkula, which is ordered to be taken on record.

It has been very categorically stated in the affidavit by giving the details of the phone number and sim card number of a particular mobile phone as was not referred to in the earlier affidavits filed, that the said sim card is found to have been issued

in Bulandshahar, U.P., and was never found to have been used after 25.01.2019, though as regards the mobile phone in which the said sim number was used, after determining from its IMEI number, it was found that as a matter of fact it was activated by a sim card issued in the name of the petitioner on 21.02.2019, in the area of Rishikesh, Uttrakhand, with 13 text messages from the service provider found to have been received on the said device through sim number 98103-81130; with however, no call made or received on that device of the said sim number.

Eventually after going into further details it has been stated that the SIT headed by the SP, Crime, had conducted a thorough investigation in the matter and had not found any incriminating material and evidence to prove the allegations levelled against the petitioner by the complainant, i.e. respondent no.2.

Consequently, the investigation stands concluded and a cancellation report in fact has been prepared with the same having been approved by the ADGP, Crime, Haryana, but with it still not submitted to the competent court, which would be done only after permission is granted by this court the matter being sub judice here.

Though, after seeing the said affidavit and seeing that the investigation has been conducted by SIT of the Crime Branch, (after both parties at one stage or the other had not reposed faith in the District Police Ambala and the SSP, Ambala, himself also having therefore sought that the matter be investigated by a different agency), I would see no reason to continue with these petitions, yet simply on the request of learned counsel appearing for respondent no.2 (petitioner in CRM-M-43775-2019), for him to point out as he wishes from the pleadings already on record before this court in all these petitions, adjourned to 14.01.2022.

To be shown in the urgent motion list.

A synopsis of all that learned senior counsel wishes to point out from the pleadings in these cases, would be provided to this court, with a copy thereof to be given in advance to learned

counsel for the petitioner as also to learned State counsel.

(A photocopy of this order be placed on the files of the connected cases)."

Thus, though various orders have been passed, some very detailed ones much prior to that also, the aforesaid order virtually summarizes the status of the investigation, including its transfer from the District Police, Ambala, to the Crime Branch of the State Police, Haryana, and consequently, no interim orders earlier passed are being referred to.

In response to the aforesaid affidavit of the SP, Crime Branch, Headquarters, Panchkula, Dr. Sidhu, learned senior counsel appearing for the complainant, i.e. the petitioner in CRM-M-43775-2019, submits that the accused, (petitioner in CRM-M-25430-2020), having admitted before the police, in reference to a particular telephonic conversation, that the voice recorded therein was his and with him found to have been threatening the complainant as also her daughters, the investigating agency has not conducted proper investigation, with not even an offence punishable under the provisions of Section 506 of the IPC having been shown to be an offence committed by the accused, other than the fact that it has been the contention of the complainant all through till today, that she was even subjected to rape over a period of years.

Consequently, he submits that this court would still direct investigation to be handed over to the CBI or some other investigating agency outside the State of Haryana.

Mr. Narula, learned counsel for the accused, on the other hand submits that the said conversation as has been referred to by the learned senior counsel for the complainant, is dated 29.01.2018, after which she also went to

London with him and many events took place thereafter, including the accused being humiliated by her in front of her parents, husband and others, and with her having even had a child from the relationship between them, the question of any intimidation in January 2018, simply on an argument having taken place in such a relationship, would not arise.

Dr. Sidhu, learned senior counsel for the complainant, counters that in fact it has also been the case of the complainant that she was forced/blackmailed into going to London with the accused, where again she was subjected to rape and even her life was threatened.

Having considered the matter, as regards handing over investigation to the CBI, (as this court has already observed earlier in the order dated 20.12.2021), I would see no reason, in the circumstances of this case, to do so, with the District Police itself having first asked the DGP, Haryana, to hand over the investigation to some other agency, in view of the allegations made by both the complainant and the accused, against the District Police.

Further, looking at the details of the investigation, as have been depicted in the affidavit of the SP (Crime) dated 13.12.2021, I would find no ground to transfer the investigation.

It is also to be noticed here that Mr. Narula, learned counsel for the complainant, has again submitted today that in fact the complainant first made a complaint before the District Police at Karnal, which was later withdrawn and subsequently, more than one year later, the FIR in question came to be registered in District Ambala.

Now therefore, with the crime Branch of the State Police Haryana, having investigated the matter, and in the opinion of this court very thoroughly, as per the affidavit filed by the SP Crime, it is considered appropriate that the matter be left to the investigating agency to submit a report to the competent court, (with no comment made as to whether the cancellation report should be submitted as it is, or whether upon approval of the competent authority some other report under the provisions of Section 173 Cr. P.C. should be submitted), and with the parties, therefore, at liberty to avail of their remedies in the entire circumstances of the case, before the competent court, as regards any report submitted by the State police to that court.

Naturally, whatever report is to be submitted by the police to the competent court, would be done within a period of one month from today, the matter already having dragged on for quite some time, after which that competent court would consider the matter in its own wisdom, and with the parties concerned to be at liberty to take their remedies before that court, as already said.

In the aforesaid circumstances, looking at the nature of allegations made on both sides, I also do not find it to be a case where the FIR should be quashed, and with it to be taken to its logical conclusion, before the competent court in due course.

Consequently, with the aforesaid directions and observations these petitions are both dismissed, the relief claimed in neither of them having been acceded to by this court, in terms of the above 'discussion'.

(A photocopy of this order be placed in the connected file of each case).

31.01.2022

preeti

whether speaking/non speaking
whether reportable/non reportable

yes/no
yes/no

(AMOL RATTAN SINGH)
JUDGE