

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(126/A)

CRM-M-21284-2022

Date of Decision: 17.05.2022

Deepanshu Verma

--Petitioner

Versus

State of Haryana & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Lav Kumar Aggarwal & Mr. D.P. Gupta,
Advocates for the petitioner.

Mr. B.S. Virk, D.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 482 Cr.P.C praying for quashing of FIR No.23 dated 17.2.2022 under Sections 323, 506 IPC and Section 6 of POCSO Act, registered at Police Station, Mahila (Ballabgarh) City and all the subsequent proceedings arising therefrom.

As per facts of the case, present FIR was lodged by the complainant/prosecutrix. The sum and substance of the allegations made in the FIR is that complainant had one brother, who is younger to her. She studied upto 10th class. One boy named Deepanshu son of Sanjay Verma lived in their neighborhood. About 3/4 years before Deepanshu made porn videos of prosecutrix. Both prosecutrix and Deepanshu used to talk to each other. It is further alleged that one day Deepanshu took the prosecutrix to his friend's house in Mirzapur and forcibly committed wrong things with her and asked her to make videos of the same. Thereafter, he made videos of the prosecutrix and started blackmailing her by showing the videos to her. She was threatened that in case she did not come to meet Deepanshu the videos would be made viral. He also took the prosecutrix to Oyo hotel so

many times. On 12.2.2022 petitioner took the prosecutrix in his Santro car which had black curtains and did wrong with her in the car itself and also gave beatings to her and then the prosecutrix made a call for police help on 31st January. A request was made to take legal action against the culprit.

Resultantly the investigation commenced.

Learned counsel for the petitioner has vehemently contended that the prosecution of the petitioner in the present FIR is nothing but an abuse of the process of law. Counsel submits that petitioner is about 19 years of age, whereas the victim is marginally less than 18 years of age. He submits that the victim in the present case had voluntarily left her parental home on 1.3.2022 as her parents gave her beatings and they made an attempt to assassinate her. Counsel submits that petitioner never made any attempt to entice her away in any manner. He submits that the petitioner was not at home and he never contacted anyone due to fear of his arrest by the police in FIR at Police Station, Mahila, Ballabhgarh. He submits that petitioner and respondent no.2 married with each other on 29.3.2022 at Pandav Kalin Neeli Chhatri Mandir with their free will. Counsel submits that his case is squarely covered by the judicial precedent of Hon'ble Supreme Court in cases of *S.Varadarajan Vs. State of Madras MANU/SC/0081/1964* and *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335*. Counsel submits that petitioner and respondent no.3 were in love with each other which was opposed by the family members of both sides. He submits that the allegations made in the FIR are totally false and fabricated and under the duress of the family members. He further submits that once the petitioner and the victim are married, then, in view of the law settled by the Hon'ble Apex Court in the aforementioned case, the FIR

lodged against the petitioner deserves to be quashed.

Learned State counsel on a query put by this Court had submitted that the victim is minor being less than 18 years of age. The investigation is at the threshold and the petitioner is yet to join the same. He submits that allegations in the FIR are specific and in view of the law settled by the Hon'ble Supreme Court in plethora of judgements, the present petition deserves to be dismissed.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

Admittedly, the investigation has just commenced. The allegations in the FIR are specific in nature. The main thrust of the arguments raised by counsel for the petitioner is that the petitioner and the victim are in love with each other and they have performed marriage as well, however, against the wishes of their family members. As per counsel for petitioner, there is no coercion whatsoever on the part of the petitioner against the alleged victim. As contended, the aforementioned judicial precedents relied upon by the counsel does not allow the prosecution of the petitioner as initiated by the investigating agency on the basis of the allegations levelled in the FIR. In all its humility, there is no dispute regarding the law settled by the Hon'ble Supreme Court in the aforementioned judicial precedent relied upon by the counsel for petitioner. However, the same is not applicable in the facts and circumstances of the present case. Learned counsel has tried to persuade this Court to invoke its inherent jurisdiction under Section 482 Cr.P.C for quashing of the FIR which is pending investigation. In plethora of judgements the Hon'ble Supreme Court has laid down that the manner and mode in which the

investigation is to be carried out totally lies within the domain of the investigating agency. The High Court can intervene in the same in exceptional circumstances, where the investigation appears to be arbitrary or malafide. There is nothing on record to justify the same. Besides this, the investigation in the case in hand being at the initial stage the interference by this Court by invoking its power under Section 482 Cr.P.C is virtually transgressing the same. The reliance placed by learned counsel for the petitioner in case of *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335* is totally distinguishable in the facts and circumstances of the present case. It is beyond comprehension to accept the arguments raised before this Court that no cognizable offence is made out from the bare perusal of the allegations made in the FIR. When the investigation is already in progress, the court must be circumspect in invoking the inherent power of this Court under Section 482 Cr.P.C and drawing conclusion of quashing the FIR in question on the basis of presumptions and assumptions. The Code of Criminal Procedure has provided the procedure for investigation. The allegations and counter allegations are purely the subject matter of a thorough investigation which is yet to be concluded.

The Hon'ble Supreme Court in *Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra, 2021 SCC Online SC 315* has held that quashing of FIR is an exception rather than an ordinary rule and the High Court should exercise the powers under Section 482 Cr.P.C sparingly with circumspection and the criminal proceedings ought not to be scuttled at the initial stage. Similarly the Hon'ble Supreme Court in *State of Tamil Nadu Vs. S.Martin and others (2018) 5 SCC 718* has held that assessment made by the High Court at a stage when investigation was yet to be completed is

completely incorrect and uncalled for.

Learned counsel for the petitioner has been unable to satisfy this Court that how the present case is a fit case to invoke its inherent jurisdiction under Section 482 Cr.P.C in the light of the law laid down by the Hon'ble Supreme Court in the above mentioned judicial precedent.

Taking into consideration the above facts and circumstances of the present case in the light of the law settled, the present case does not fall in the category of cases for invoking the inherent powers under Section 482 Cr.P.C. The veracity of the allegations levelled by the complainant can be assessed only after a thorough investigation and thereafter by the Trial Court on the basis of the evidence led before it.

Thus, this Court is of the opinion that the case of the petitioner does not qualify for exercising its powers by this court under Section 482 Cr.P.C. Resultantly, the petition being devoid of any merit is hereby dismissed. However, nothing stated herein shall be treated as an expression on the merits of the case

(RAJESH BHARDWAJ)
JUDGE

17.05.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No