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2023:PHHC:048858

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

Date of decision: 11.04.2023

1. COCP-424-2022 (O&M)

Suresh Kumar

... Petitioner

Vs.

Wazir Singh and anr.

.. Respondents

2. COCP-436-2022 (O&M)

Ramesh Kumar

... Petitioner

Vs.

Arpit Jain and ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: None for the petitioner (in COCP-424-2022).

**Mr. Lupil Gupta, Advocate
for the petitioner (in COCP-436-2022).**

**Mr. S.S. Kang, Advocate
for respondent No.1 (in COCP-424-2022).**

Mr. Pawan Kumar Longia, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in both these petitions is for initiation of contempt proceedings against the respondents for violation of the judgment passed by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar and anr., 2014 (3) RCR (Cr.) 527.**

Learned counsel for the petitioner submits that petitioner Ramesh Kumar is a practicing lawyer at Sirsa and was nominated as an accused on the complaint given by Kanchan wife of Jagdish, who is real brother of the petitioner.

As per allegations in the FIR, marriage of the complainant was solemnized with accused Jagdish on 20.01.2016 and huge amount was spent, however, after two months, all the accused started harassing her for not bringing adequate dowry. In the FIR, details of the incident, when the complainant was given beatings, are given and she was medico-legally examined twice at Civil Hospital, Sirsa and twice at Civil Hospital, Dabwali. It is further stated that despite assurance given by family of the petitioner, they did not mend their ways and ultimately, the FIR was registered.

The only argument raised by learned counsel for the petitioner is that without following the procedure under Section 41 Cr.P.C., the petitioner was arrested, therefore, there is violation of judgment of the Hon'ble Supreme

Court in **Arnesh Kumar**'s case (supra).

Learned counsel for the petitioner, however, submits that subsequent to registration of FIR, the petitioner was arrested on 10.10.2020 and was sent to judicial custody by the Illaqa Magistrate and thereafter, he was granted regular bail and he has given complaints to the higher authorities, which are under process.

Separate replies by the respondents have been filed. In the affidavit filed by respondent No.1 Superintendent of Police, Sirsa, after giving details of the FIR, it is stated that after registration of the FIR, on 30.05.2020, accused Jagdish, who is husband of the complainant, was arrested and he made a disclosure statement that his brother-petitioner Ramesh Kumar and Vikram used to force the complainant to sleep with them. It is further stated that challan stands presented under Sections 323, 34, 406, 498-A, 506 IPC. It is also stated that one of the accused Bimla was granted anticipatory bail and she was joined the investigation. It is next stated that the petitioner was arrested on 10.10.2020 i.e. after a period of about 05 months of registration of FIR and even he made a disclosure statement that since no child was born to Kanchan, petitioner and her brother asked her to have sexual relations with him in order to give birth to a child. It is further stated in the affidavit that after arrest of the petitioner, he was produced before the Illaqa Magistrate and on completion of the investigation, supplementary challan was presented under Sections 498-A, 406, 323, 354-A, 354-B, 342, 506, 34 IPC against Jagdish and Bimla Devi and

similarly against co-accused Vikram and petitioner. It is also stated that the petitioner filed an application before the Illaqa Magistrate for rejecting the report submitted under Section 173(2) Cr.P.C., which was declined vide order dated 17.05.2022, by observing as under: -

“Applicant/accused side is trying to intimidate the Police officials which is not proper and fair. Accordingly, application in hand is dismissed.”

It is next stated that thereafter, the petitioner preferred a revision petition before the Court of Additional Sessions Judge, Sirsa, which was also dismissed vide order dated 17.11.2022, by making the following observations:-

“The contents of the application of revisionist/applicant/accused Ramesh Kumar by itself show that he wants that the investigation and the case should proceed as per his wishes. Rather, the revisionist is tarnishing the image of police officials by levelling such allegations against them without any substance and action should be taken against him for defaming the police officials. The application filed by the revisionist is not even maintainable.”

In the separate replies filed by respondents No.2 & 3, who were Investigating Officers of the case, again it is denied that they have not followed the procedure. It is stated that the petitioner was arrested on 10.10.2020 i.e. after 05 months of registration of FIR and the investigation was completed and there was no order granting anticipatory bail to the petitioner. It is further

stated that during the investigation, it has come that when complainant Kanchan refused to have sexual relations with the petitioner and his brother Vikram, she was repeatedly given beatings and was harassed. It is also stated that the petitioner moved as many as 400 complaints against the police officials to the different authorities and majority of them have been filed.

On a Court query, learned counsel for the petitioner could not dispute that for a period of five months i.e. from 02.05.2020, when the FIR was registered, till 10.10.2020, when the petitioner was arrested, he never applied for grant of anticipatory bail.

After hearing learned counsel for the parties and going through contents of the FIR as well as investigation, this Court finds that there is no willful disobedience of the directions issued by the Hon'ble Supreme Court in **Arnesh Kumar's** case (supra).

Accordingly, both these petitions are dismissed.

A photocopy of this order be placed on the file of connected case.

[ARVIND SINGH SANGWAN]
JUDGE

11.04.2023
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No