

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

CRM-M-37243-2017

Date of Decision: September 13, 2023

Vikas

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vishal Nehra, Advocate,
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Ishmoor Singh, Advocate,
Mr. Vikram Singh, Advocate,
for respondent No.2.

Vivek Puri, J.

1. In this petition, the petitioner has invoked the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing the FIR No. 30, dated 18.05.2017, under Sections 323/376/506 of the Indian Penal Code (for short 'IPC'), registered at Police Station Women Police Station Sonipat, District Sonipat (Annexure P-1) and all subsequent proceedings arising therefrom.

2. Briefly, the FIR has been registered on the allegations that about 10 days prior to the registration of the FIR, the prosecutrix/respondent no.2 had gone to Government Hospital in search of job as there was vacancy

of Safai Sewak. She met the petitioner, who disclosed that he was having good relations with the hospital authorities and will arrange job for her. The petitioner exchanged the mobile number with the prosecutrix. After 2 days, the petitioner gave a call to the prosecutrix and informed that she will get appointment on DC rates. Thereafter, the petitioner had been making calls on the mobile number of the prosecutrix everyday. On 17.05.2017, the petitioner took the prosecutrix on the pretext of meeting the officer who had to appoint her. She was taken to nearby Sai Baba temple where a vehicle was parked and was made to sit therein. The prosecutrix was taken to TDI flats Kundali on the pretext that the officer was residing therein. She was taken to the 4th floor of the building and came to know that there was no one in the flat. The petitioner closed the door of the flat, threatened to kill the prosecutrix and committed rape upon her.

3. I have heard learned counsel for the parties and perused the record.

4. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the instant case. The mother of the petitioner had lodged an FIR bearing FIR No. 460, dated 22.07.2017, under Sections 120B, 34, 389 IPC, registered at Police Station Sonipat City, District Sonipat (Annexure P-3) against the prosecutrix and another

person alleging that they are operating a gang and about 15-20 ladies are working as sex workers. They trap the innocent persons and in connivance with the police indulging in extortion. Furthermore, it was alleged in the said FIR that the petitioner i.e. son of the complainant, has been falsely implicated in the FIR (Annexure P-1) and they are being black-mailed and a demand of Rs. 40 lakhs has been raised for making favourable statement. The mother of the petitioner expressed her inability to pay the huge amount and the demand was reduced to Rs. 5 lakhs. The prosecutrix had also made a confessional statement during investigation of the aforesaid FIR (Annexure P-3) acknowledging the allegations as put forth against her in the FIR. Furthermore, another FIR bearing No. 162, dated 11.04.2017, under Sections 120B, 34, 389 IPC, has been registered at Police Station Sonipat City, District Sonipat (Annexure P-2). In such circumstances, the FIR (Annexure P-1) is liable to be quashed as the same has been lodged with an intention to extort huge money from the petitioner and his family.

5. Learned State counsel and the learned counsel for respondent no.2 have contended that it will be too early to conclude that the present FIR has been falsely lodged against the petitioner with an intention to extort money. There are categorical and specific allegations against the petitioner to the effect that the prosecutrix was deceitfully

taken to a flat on the pretext of providing employment and rape was committed upon her by the petitioner. Furthermore, the matter with regard to the FIRs (Annexure P-2 and P-3) are under trial and the same have not been finally decided by the trial Court.

6. The power vested under Section 482 of Code of Criminal Procedure is extra-ordinary in nature and required to be exercised with a view to secure justice. The power is not intended to be used to obstruct justice or cause impediment in its dispensation. The inherent power vested in the High Court is required to be exercised in exceptional cases to prevent a miscarriage of justice and abuse of the process of Court or otherwise secure ends of justice. The power of quashing the criminal proceedings should be exercised very sparingly and with circumspection and that too in rarest of rare cases. The Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise the allegations as set out in FIR/complaint/charge-sheet. The inherent power cannot be allowed to be exercised to stifle or hamper a legitimate prosecution.

7. In ***Saranya Vs. Bharathi and another, 2021(4) R.C.R. (Criminal), 46***, it has been held by the Supreme Court as follows:-

*“In the case of Deepak (supra), to which one of us (Dr. Justice D.Y. Chandrachud) is the author, after considering the other binding decisions of this Court on the point, namely, **Amit Kapoor v. Ramesh Chander (2012) 9 SCC 460; State of Rajasthan v. Fatehkaran Mehdu (2017) 3 SCC 198; and Chitresh Kumar Chopra v. State (Government of NCT of Delhi) (2009) 16 SCC 605**, it is observed and held that at the stage of framing of charges, the Court has to consider the material only with a view to find out if there is a ground for “presuming” that the accused had committed the offence. It is observed and held that at that stage, the High Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, take at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. It is further observed and held that at this stage the High Court is not required to appreciate the evidence on record and consider the allegations on merits and to find out on the basis of the evidence recorded the accused charge-sheeted or against whom the charge is framed is likely to be convicted or not.”*

8. On advertent to the merits of the present case, it is significant to note that there are categorical and specific allegations leveled against the petitioner by the prosecutrix that she was sexually abused and rape was committed upon

her by the petitioner. The prosecutrix was taken to TDI flats in deceitful manner and on the false pretext of meeting the person who was to provide employment to the prosecutrix. The prosecutrix was deceived by the petitioner on the pretext that she will be provided a job of Safai Sewak in Government Hospital. The mother of the petitioner has lodged an FIR (Annexure P-3) against the prosecutrix raising allegations to the effect that she along with others trapped the innocent persons and extract huge money by lodging false FIRs. The prosecutrix has allegedly raised demand of Rs. 40 lakhs to make favourable statement and the same was subsequently reduced to Rs. 5 lakhs when the mother of the petitioner expressed her inability to pay the huge amount. It may be mentioned here that the FIR (Annexure P-3) has been registered at the instance of the mother of the petitioner subsequent to the registration of the present FIR. It is quite possible that the same has been lodged as an attempt to create false defence version for the petitioner. The confessional statement of the prosecutrix made during the course of investigation of the case on the basis of the FIR (Annexure P-3) cannot be termed to be a sufficient reason to conclude in the instant case that the petitioner has been falsely implicated. The reliability and admissibility of such a statement is to be adjudicated during the course of trial in that case. Furthermore, the matter on the basis of FIRs

(Annexure P-2 and P-3) has not been finally adjudicated by the trial Court. The genuineness of the allegations as put forth by the petitioner will be a matter of trial. It will be too early to conclude that the petitioner has been falsely implicated in the present case and the FIR has been motivated to extract the money from him.

9. For the aforesaid reasons, finding no merit in the petition, the same is dismissed.

September 13, 2023
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(Vivek Puri)
Judge

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