

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-16039-2022
Date of Decision: 21.11.2023

YAKUB ALI

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Parminder Walia, Advocate for
Mr. Manoj K. Sharma, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

None for respondent No.7.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for directing respondents No.1 to 4 to transfer the investigation to police of any other district in Punjab and matter be investigated by a senior officer not below the rank of Superintendent of Police in FIR No.118, dated 27.11.2021, under Sections 363, 365, 341, 505, 148 and 149 of the IPC registered at Police Station Shri Hargobindpur, Batala, District Gurdaspur (Annexure P-1).

Learned counsel for the petitioner vehemently argued that the petitioner has been falsely implicated in the aforesaid FIR and the respondent-Authorities thereafter implicated the petitioner in yet another FIR No.227 dated 04.12.2021 registered under Sections 363 and 366 of IPC at Police Station Mukerian, District Hoshiarpur. The gist of the allegations levelled in the FIR

No.118 dated 27.11.2021 is that complainant is purportedly staying with his 17 years old niece Yatun. It is contended that Yatun was married and was having two children namely Marium Begum and Hafeez and she had obtained a customary divorce by way of mutual consent from Jummu son of Nammi and that the alleged occurrence never took place, and the police overlooked the mobile phone locations of the complainant as well as the other co-accused persons. As per mobile phone tower location, he was present in district S.B.S. Nagar. It is further averred that so far as FIR No.227 dated 04.12.2021 registered against the petitioner and other persons concerned, the investigation into the same was conducted and a cancellation report had been prepared. It was further submitted that even though the cancellation report was prepared in the said FIR, however, the same has not been presented before the Court concerned till date. Learned State Counsel submits on instructions from ASI Ramesh Kumar and ASI Sawambarjit Singh that so far as the FIR No.118 dated 27.11.2021 is concerned, a final report under Section 173 of the Cr.P.C. has already been presented and out of a total of fifteen prosecution witnesses, 11 witnesses have already been examined. Hence, there would be no reason for transferring the investigation to the police of any other district in the State of Punjab. In relation to FIR No.227 dated 04.12.2021 is concerned, learned State Counsel does not dispute the fact that a cancellation report has been prepared in the matter and he undertakes that the same shall be filed before the competent Court within a period of four weeks from today.

Taking into consideration the aforesaid developments that have taken place including the advanced stage of the trial, it would be improper at

this juncture to direct reinvestigation in the matter, especially when much water has flown since then.

The present petition is accordingly disposed of as not pressed at this stage.

The petitioner shall be at liberty to take all his pleas in the criminal trial pending against him. The respondent-State shall, however, remain bound by the undertaking to furnish the cancellation report in FIR No.227 of 04.12.2021 within a period of four weeks as undertaken today in Court.

NOVEMBER 21, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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