

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

123+204

CRM-M-40817-2019(O&M)
Date of Decision : 17.02.2023

Varinder Kumar @ Vicky

..... Petitioner

Versus

State of Punjab and another

..... Respondents

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CRM-M-47192-2019

Varinder Kumar @ Vicky

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.G.S.Bhasin, Advocate
for the petitioner.

Mr. Amish Sharma, Asstt. A.G., Punjab.

Mr. Munish Gulati, Advocate for
Mr. Naveen Sharma, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

CRM-6396-2023

Prayer in this application is for placing on record Annexures A-1 to A-4.

Allowed as prayed for and Annexures A-1 to A-4. are taken on record subject to all just exceptions.

Registry is directed to tag the same at an appropriate place.

CRM-M-40817-2019

By this common order, two petitions No. CRM-M- 40817 of 2019 and CRM-M- 47192 of 2019 are hereby adjudicated.

The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of FIR No.37 dated 23.03.2019 registered at Police Station Kotwali Bathinda, District Bathinda, under Sections 376-D, 506, 342, 120-B of IPC and Section 3/4/5/6 of Immoral Traffic (Prevention) Act, 1956.

Learned counsel for the petitioner, at the outset, submits that as per FIR, the alleged incident took place in the intervening night of 1/2.2.2019 and on the said day, the petitioner was out of India.

Vide order dated 19.01.2023, the petitioner was directed to submit proof of his travel to London on 26.01.2019.

In compliance of order of this Court, the petitioner through his counsel appeared before the Investigating Officer and submitted documents disclosing that he had left India on 26.01.2019, thus, there was no question of involvement of petitioner in the commission of alleged offence on 1/2.2.2019.

Status report dated 16.02.2023 by way of affidavit of Jatinder Singh, PPS, DSP, PBI NDPS-cum-Narcotics Bathinda, Additional Charge DSP, City-I, Bathinda, is taken on record. Registry is directed to tag the same at appropriate place.

As per status report filed by the State, the petitioner had left India on 26.01.2019 and he was not in India on 1/2.2.2019. The relevant extracts of the affidavit read as :

“That the Learned counsel for the

petitioner submitted documents relating to his travel record to the I.O. of the case. It is submitted that in order to verify and to ascertain the veracity of the said documents, the S.S.P. Bathinda wrote a letter No. 1237/C dated 30.01.2023 and letter No. 2139/C dated 10.02.2023 to the Assistant Director CFB, East Block 8, Level V, Sector 1, RK Puram, New Delhi-110066 for supplying the travel record of the petitioner. As per the information received from the above said office vide their letter dated 06.02.2023, the petitioner left India on 26.01.2018 for going to London (through flight from Amritsar Airport)."

Learned counsel for the petitioner drew attention of this Court to order dated 04.01.2023 whereby Judge, Special Court, Bathinda, has dismissed application (under Section 319 Cr.P.C.) of the private respondent seeking summoning of the petitioner as an additional accused.

Learned counsel for the private respondent submits that the petitioner has committed alleged offence, thus, impugned FIR needs not to be quashed.

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

The conceded position emerging from the record is :

- i) As per FIR, the alleged offence was committed in the intervening night of 1/2.2.2019;
- ii) The petitioner left India on 26.01.2019;
- iii) As per report of Investigating Officer, the petitioner was

not in India in the intervening night of 1/2.2.2019;

- iv) The police after investigation filed *challan* against other accused, however *challan* was not presented against the present petitioner.
- v) The trial Court has dismissed application of the private respondent seeking summoning of the petitioner as an additional accused..

In view of the admitted position that on the day of alleged incident, the petitioner was out of country, it is highly improbable to believe that the petitioner has committed alleged offence. It is apt to mention here that prosecutrix has turned hostile qua three accused which further indicates act and conduct of the prosecutrix. It appears to be a case of misuse of process of law. It is unfortunate that a lady is making allegation of rape against a man who was not in India. It seems to be a case of blackmailing. This type of allegation needs to be deprecated because it becomes very difficult for the Court to decipher genuine case(s) from such type of cases.

In view of the above facts and findings, the present petition needs to be allowed and accordingly allowed.

The Investigation Officer is directed to withdraw LOC.

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

(JAGMOHAN BANSAL)
JUDGE

17.02.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>