

**CRM-M-7668-2020(O & M)****1****113+254****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-7668-2020 (O & M)****Date of decision: 31.07.2024****Harbans Singh and another****...Petitioners****versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. R.S. Bajaj, Advocate
for the petitioners.Mr. Umesh Kumar Kanwar, Advocate
For respondent No.2

Mr. Rishabh Singla, AAG, Punjab.

*********HARPREET SINGH BRAR J. (ORAL)****CRM-29630-2024**

This is an application under Section 528 of Bharatiya Nagarik Suraksha Sanhita 2023 for placing on record rejoinder to the reply on behalf of respondent No. 2 along with Annexures P-8 to P-10.

For the reasons mentioned in the application, same is allowed and rejoinder to the reply filed by respondent No. 2 along with Annexures P-8 to P-10 are taken on record subject to all just exceptions.

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1. The present petition has been preferred under Section 482 Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of FIR No. 183 dated 07.11.2019 registered under Sections 354, 509, 328, 376, 506 IPC at Police Station City Fazilka along with all subsequent proceedings arising therefrom.

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2. Briefly, the facts are that on 01.07.2019, respondent No.2 started working in Ambition Academy, which is owned by the son of the petitioners i.e. Prabhjot Singh. Soon after, familial relations developed between them. The petitioners, who lived in the house above the academy, also entrusted respondent No.2 with Prabhjot Singh's well being before leaving for Canada. In August, 2019, Prabhjot Singh forcibly kissed respondent No.2 and touched her breasts. On her protest, he apologized and promised to marry her. He also made her speak to petitioner No.2, his mother on call who assured her this will not be repeated. On 14.09.2019, Prabhjot Singh called respondent No.2 and her sister to his house to speak to petitioner No.2 regarding their marriage. However, when they arrived, he told them that petitioner No.2 had to visit a relative. Thereafter, Prabhjot Singh gave a cold drink to respondent No.2 and her sister, which caused them to fall unconscious and raped respondent No.2. He assured her that he will marry her. On 22.12.2019, respondent No.2, her father and sister visited Prabhjot Singh in his office and were informed by him that he is already betrothed to another and cannot marry respondent No.2. Petitioner No.2, who was watching the scene through CCTV, came to the office and threw respondent No.2 and her family out, while threatening to implicate them in a false case. A couple of days after Diwali, one Gagan and 2-3 other boys came to the shop of the father of respondent No.2 and offered him money to close the matter. When he refused to accept the money, they threatened him with dire consequences if he takes any action against the accused.

3. Learned counsel for the petitioner *inter alia* contends that the son of the petitioners shared an intimate consensual relationship with respondent

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No.2, as evidenced by their WhatsApp chat (Annexure P-1 colly). Respondent No.2 lodged FIR(supra) against the petitioners and their son after two months of the alleged incident of rape, for reasons known best to her. In fact, on 15.09.2019, at 11:39 AM, respondent No.2 placed an order food at the address of Ambition Academy i.e. address of Prabhjot Singh (Annexure P-3), and such conduct makes her allegation of rape the night before, untenable. Moreover, neither were the petitioners present at the spot of the alleged incident at that time, nor have they facilitated the same in any manner. Respondent No.2 has only lodged FIR(supra), in connivance with one Gursimaran Kaur @ Aunty and Inspector Navdeep Singh Bhatti, SHO, in order to blackmail the petitioners and their son for Rs. 30,00,000/-. Not only did Inspector Navdeep Singh Bhatti oppose anticipatory bail to the petitioners tooth and nail before the learned Sessions Judge, he also registered an FIR bearing No. 194 dated 01.12.2019 under Sections 212 and 216 IPC at Police Station City Fazilka against brother of petitioner No.2, namely Tejinderpal Singh, who was sheltering Prabhjot Singh. In fact, on 09.12.2019, petitioner No.1 was attacked by the father of respondent No.2, when he went to the police station to join the investigation, however, no action was taken against them. Petitioner No.1 sustained a grievous injury at the hands of the father of respondent No.2, as reflected by MLR (Annexure P-6). Learned counsel further contends that petitioner No.1 had gone to Canada for visiting his daughter on 16.05.2019 and returned on 08.11.2019, while petitioner No.2 visited Canada on 06.02.2019 and returned on 31.07.2019. As such, they have no involvement in the commission of the offence as alleged by respondent No.2.

4.

Per contra, learned State counsel, assisted by the learned counsel

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for respondent No.2, submits that the son of the petitioners has raped respondent No.2 and cheated her by making a false promise of marriage, which was facilitated by the conduct of the petitioners. The offence is of a grievous nature and as such, does not deserve any intervention by this Court. Learned State counsel also submits that the final report under Section 173 Cr.P.C. already stands presented, however, the trial remains stayed in view of order dated 20.02.2020 passed by this Court.

5. Having heard the learned counsel of the parties and after perusing the record with their able assistance, this Court is of the considered opinion that continuation of criminal proceedings against the petitioners would amount to miscarriage of justice. No specific allegations have been leveled against the petitioners who, apparently, have only been arraigned as accused by the virtue of being parents of the main accused- Prabhjot Singh. Moreover, petitioner No.1 was in Canada from 16.05.2019 to 08.11.2019, while petitioner No.2 was there from 06.02.2019 to 31.07.2019, as such, they cannot be said to have played an active role in facilitating the exploitation of respondent No.2. Further, order dated 07.12.2023 passed by the learned Chief Judicial Magistrate, Fazilka indicates that a cancellation report was presented against FIR(supra) and the father of respondent No.2, namely Anil Kumar, stated that he has no objection is the same is accepted. Subsequently, on 09.12.2023, the following order was passed:

“File taken up in National Lok Adalat. Heard. In view of the statement suffered by complainant dated 07.12.2023, the cancellation report is hereby accepted. The police file be sent to the PS concerned where judicial papers be separated and consigned to the Judicial Record Room, Fazilka.

Date of Order 09.12.2023

*Amandeep Kaur
Chief Judicial Magistrate*

6. In view of the discussion above, the present petition is allowed and FIR No. 183 dated 07.11.2019 registered under Sections 354, 509, 328, 376, 506 IPC at Police Station City Fazilka along with all subsequent proceedings arising therefrom, are hereby quashed qua the petitioners.
7. Pending application(s), if any, also stand(s) disposed of.

31.07.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No