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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7260-2019 (O&M)
Date of decision: 02.08.2024

Mandeep Kumar

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Ruhani Chadha, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for quashing of FIR No.9 dated 30.01.2019 under Sections 376 & 420 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Goraya, Jalandhar Rural (Annexure P-1) and all the subsequent proceedings emanating therefrom.
2. Briefly, the facts as alleged are that the complainant was posted

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as a Lady Constable at Police Station Bhargo Camp, District Jalandhar. In August, 2013, she came in contact with the petitioner and thereafter, they became friends and started talking with each other on mobile phone. The petitioner told the complainant that he was working as a Sepoy in the Indian Army and is currently posted in Sports Wing, Patiala. In November, 2013, the petitioner's proposal for marriage was accepted by the complainant, with her parents' approval. In December, 2013, the petitioner asked the complainant to give him Rs.15,000/- per month in order to enable him to settle in life. Consequently, the complainant paid Rs.15,000/- per month to the petitioner from December, 2013 to January, 2017, which amounts to a total of Rs.5,00,000/-. Thereafter, the petitioner demanded Rs.10,00,000/- from the complainant to purchase a house and on this, the complainant expressed her inability.

3. It was further alleged that in June, 2014, the petitioner and the complainant went to Chintpurni to pay obeisance. The petitioner forced the complainant to stay with him at a hotel, where, by administering some intoxicating substance to her, he developed physical relations with her against her consent. He also clicked obscene photographs of the complainant. When the complainant protested, the petitioner threatened to show her obscene photographs to her parents and others if she did not pay Rs. 10,00,000/- to him. When the complainant threatened to proceed against him, the petitioner agreed to perform engagement ceremony with her, which



took place on 04.10.2015. Thereafter, the marriage between the parties was solemnized on 14.02.2017. In the engagement ceremony, gold ornaments weighing 4 *tolas* were given to the petitioner. Even post marriage, the petitioner continued to physically exploit the complainant. The complainant informed her father about the same and in order to save the situation, he paid Rs.80,000/- to the petitioner. The complainant took a loan from the HDFC Bank and gave Rs.3,50,000/- to the petitioner to purchase a car. However, he yet again threatened to display her obscene photographs if his demand for Rs.25,000/-, to book an I-20 car, was not met.

4. Learned counsel for the petitioner contends that since respondent No.2 was employed in the Punjab Police, the petitioner has a reasonable apprehension qua fairness of the investigation. The petitioner would be satisfied, if investigation of the FIR (*supra*) is entrusted to an officer not below the rank of Superintendent of Police.

5. Learned State counsel, assisted by learned counsel for respondent No.2 and on instructions from SI Rakesh Kumar, SHO, Police Station Goraya, Jalandhar Rural, submits that there are specific allegations against the petitioner which are being duly investigated by the investigating agency.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds force in the arguments advanced by learned counsel for the petitioner.



7. A Constitution Bench of the Hon'ble Supreme Court in ***Lalita Kumari Vs. Govt. of U.P. and others, 2013 (4) RCR (Crl.) 979*** has issued detailed guidelines directing a preliminary inquiry to be conducted in cases with abnormal delay in initiating criminal prosecution, to ascertain commission of a cognizable offence before registering an FIR.

8. It is a settled law that where a constitutional Court can invoke its power to transfer the investigation to a different agency, especially when it becomes necessary to provide credibility and instill confidence in the investigation or where such order may be necessary for doing complete justice and enforcing the fundamental rights. Owing to the fact that respondent No.2 is a Lady Constable with the Punjab Police and in view of the legal maxim-*Justice should not only be done, but should manifestly and undoubtedly be seen to be done*, this Court is of the opinion that endeavours must be made to ensure that the investigation is and appears to be fair.

9. Keeping in view the facts and circumstances of the case and without commenting anything on the merits of the case, the Senior Superintendent of Police, Jalandhar Rural is directed to entrust the investigation of FIR (*supra*) to an officer not below the rank of Superintendent of Police, to conduct preliminary enquiry and examine the veracity of the allegations levelled against the petitioner. The concerned Superintendent of Police shall present the conclusions of the enquiry before the jurisdictional Magistrate.

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10. Till then, the interim order passed by this Court on 15.02.2019 will remain in force.

11. Disposed of, accordingly. Pending miscellaneous application(s), if any, shall also stand disposed of.

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[HARPREET SINGH BRAR]
JUDGE

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