

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22457-2024
Date of decision: 06.05.2024

Monica Bains

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Navjot Singh, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. seeking issuance of directions to the official respondents to act and decide the written complaint/representation dated 11.11.2022 (Annexure P-1) before respondent No.3 and written complaint/representation dated 04.01.2023 (Annexure P-2) before respondent No.2 submitted by the petitioner.

2. Succinctly, the facts are that the marriage between the petitioner and respondent No.6 was solemnised on 13.03.2020. The petitioner found out after marriage that respondent No.6 was a chain smoker, drug addict and an alcoholic, unable to perform the sexual act. The marriage between the parties could not be consummated on account of respondent No.6. and out of frustration regarding the same, he began misbehaving with the petitioner. The petitioner moved a complaint before No.3-SSP Mohali on 11.11.2022, which was marked to respondent No.5-SHO, Women Cell. However, the matter was

remanded back at the behest of respondent No.3-SSP, Mohali stating that the investigation should be conducted by a higher ranking officer. Thereafter, the petitioner was informed that the complaint has been marked to respondent No.4-SP, Traffic. Astonished by the same, the petitioner moved a representation before respondent no.3-SSP, Mohali and the Chief Minister, Punjab, requesting a fair and impartial investigation by the Women Cell, Mohali, to which the complaint was originally marked.

3. The representation given to the Chief Minister was marked yet again to respondent No.3 who further marked it to respondent No.5. While the petitioner was called by Nirdosh Singh, Investigation Officer to join the investigation, no further information was given. Neither the statements of the accused have been recorded, nor any other action has been taken in furtherance of the said complaint.

4. On 02.07.2022, respondent No.6, in an intoxicated state, forcibly entered the parental house of the petitioner and intimidated her family. A call was made on 112 and a complaint was registered to this effect. Thereafter, on 04.01.2023, another representation was moved by the petitioner before respondent No.2-DGP, Punjab. Since no action was taken despite all the best efforts of the petitioner, she had filed an application under Right to Information Act, 2005, seeking the status of the said representations. However, no reply has been received to the said query yet.

5. Learned counsel for the petitioner *inter alia* contends that the petitioner and her family were deceived as it was not previously disclosed to them that respondent No.6 was an addict which also made him unable to consummate their marriage. Frustrated by the said fact, respondent No.6 also

resorted to physical violence against the petitioner. However, since his father-respondent No.7 is the former DGP, Haryana, who wields considerable influence on the police officials, the complainants and representations moved by the petitioner have not been duly acted upon and the initiation of criminal proceedings have still not taken place. The dilatory tactics employed by respondent No.3 and other police officials indubitably exhibit the high-handedness of the accused who are in cahoots with the police officials, which has had a pernicious effect on free and impartial investigation.

6. Learned counsel for the petitioner further submits that the petitioner would be satisfied in case a direction is issued to respondent No.2 to consider and decide the representation dated 04.01.2023 (Annexure P-2) submitted by the petitioner in a time bound manner.

7. Having heard learned counsel for the petitioner and after perusing the record with his able assistance, this Court finds that no inquiry has been conducted qua the allegations levied by the petitioner. 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 matrimonial disputes to ascertain commission of a cognizable offence before registering an FIR for commission of offences punishable under Sections 498-A & 406 of IPC.

8. Notice of motion to the official respondents only.

9. Mr. Subhash Godara, Addl.A.G., Punjab, puts in appearance and accepts notice on behalf of the official respondents-State. Learned counsel for the petitioner is directed to supply copy of complete paper book to learned State counsel during the course of the day.

10. Keeping in view the prayer made by the petitioner and without commenting anything on the merits of the case, the present petition is disposed of with a direction to respondent No.2 to consider and decide the representation dated 04.01.2023 (Annexure P-2) submitted by the petitioner within a period of four weeks from the date of receipt of certified copy of this order, in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

06.05.2024
Neha

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