

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

113

CRM-M-26221-2023 (O&M)
Date of decision: 14.02.2024

Davinder Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sarju Puri, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking issuance of direction to respondent No. 2-Inspector General of Police, Ludhiana Range, Ludhiana to to transfer the enquiry in Complaint No. 7627/UID No. 101679, submitted by the petitioner, to a senior police officer, not below the rank of Senior Superintendent of Police, outside the District S. B. S. Nagar.
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforesaid complaint was filed by the petitioner on 18.01.2023 alleging therein that she was married to one Navi Mohammad about two years back. She had come in contact with respondent No. 4-Gurpreet Singh @ Gopi, while she had gone to Gurdwara Sahib at village Mazara Nau Abad to pay obeisance on 07.08.2022 as on the said day, she had fainted and on regaining consciousness, she found that respondent No. 4 and some other persons were providing care and first aid to her. They exchanged their mobile numbers. Thereafter, respondent No. 4 started calling petitioner almost every day on the pretext of friendship. On 27.08.2022, he invited petitioner to attend his birthday

Neutral Citation No. 2024:PHHC:020466

party at a hotel. On reaching hotel, respondent No. 4 took her to a room of the hotel on the pretext that they would wait there for some time but he left the room. After sometime, he returned and offered a glass of juice to the petitioner and on consuming the same, the petitioner lost her consciousness. On regaining unconsciousness, the petitioner found that she was disrobed and respondent No. 4 had ravished her. Thereafter, he dropped her at her village. After sometime, he sent a nude photograph of the petitioner through Whatsapp and threatened her to upload the same on social media, if she disclosed about the incident to anyone. On 27.09.2022, by extending threats, respondent No. 4 again committed rape upon her by taking her to the same hotel. The petitioner mustered courage and narrated the entire incident to her husband, who refused to help her in any manner. On 04.01.2023, respondent No. 4 again called the petitioner to village Paddi Sura Singh and forcibly took her to a tubewell room, where somehow she managed to procure her obscene photographs and videos from the mobile phone of respondent No. 4 and deleted the same from his phone. It is further alleged that on the basis of the aforesaid material, the petitioner submitted the aforesaid complaint to respondent No. 2-SSP, S.B.S. Nagar and sought immediate action against respondent No. 4. The said complaint was marked for enquiry to Superintendent of Police (Hq.), S.B.S. Nagar but the enquiry was not being conducted in a proper and impartial manner. Therefore, the petitioner has filed the present petition with the aforesaid prayer.

4. The respondent-Status has filed the status report by way of affidavit of Deputy Superintendent of Police, S.B.S. Nagar on 28.07.2023, wherein it is submitted that on receiving the aforesaid complaint from the petitioner, keeping in view the serious allegations as levelled by the petitioner, the complaint was marked to Superintendent of Police, (Hq.), S.B.S. Nagar for enquiry and a thorough enquiry was conducted on the complaint. However, since the

Neutral Citation No. 2024:PHHC:020466

allegations levelled in the complaint were found unsubstantiated, the same was filed. It is also submitted that the petitioner on 15.02.2023 had moved representations to Inspector General of Police, Ludhiana Range, Ludhiana as well as Senior Superintendent of Police, S.B.S. Nagar seeking transfer of the enquiry to some other district with similar allegations as made in the complaint and accordingly, a Special Investigation Team (SIT) was constituted consisting of Superintendent of Police (Investigation), DSP(Hq.) and vide report dated 16.02.2023, a thorough enquiry was again conducted. During enquiry, respondent No. 4 was interrogated and the statement of the owner of the said hotel was also recorded, besides examining the digital evidence procured by the police from the petitioner as well as from hotel. The SIT concluded that the relationship between the petitioner and respondent No. 4 was of consensual nature as on seeing a video procured by the petitioner, it is revealed that it was the petitioner herself, who was installing the mobile phone camera in the room of the hotel and there was nothing like that the petitioner had lost her consciousness. Rather, the petitioner was actively involved with respondent No. 4 in the act. Even the Manager of the hotel had stated that the petitioner and respondent No. 4 had visited his hotel on 27.08.2022 and 27.09.2022 and they both had produced their Aadhar Cards for booking the room and they willingly went inside the room. In fact, the petitioner wanted to go to England on study Visa and she was in search of a boy, who can bear the expenses and in the said process, she had trapped respondent No. 4 by posing herself unmarried. A further perusal of the status report shows that other allegations of the petitioner were also found to be false during the enquiry. Therefore, no action was taken on her complaint and the same was filed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record.

6. A perusal of the status report shows that twice a thorough and detailed enquiry was conducted on the complaint as well as subsequent representations of the petitioner and it was found that the petitioner was in consensual relationship with respondent No. 4 with some ulterior motives. From a perusal of the evidence, which has been collected by the police during enquiry, it cannot be stated that the enquiry was not conducted in a proper and impartial manner as the same is supported by several digital evidence. Moreover, the enquiry was conducted by senior police officers, that too, after constituting an SIT. The petitioner is a mature lady. The allegations levelled by her that she had indulged into physical relations with respondent No. 4 on threats being extended by him seems to be highly improbable even to this Court. The very allegation that she was administered some intoxicating substance by mixing the same in some juice stood falsified on the basis of a video, which she herself had supplied to the petitioner, wherein nothing of that sort was seen. Rather, the petitioner was seen in a comfortable condition with respondent No. 4 in her full consciousness. Therefore, the allegations levelled by her with regard to subsequent events also lose their credibility.

7. In view of the discussion made above, this Court finds no merit in the present petition and the same is dismissed accordingly.

14.02.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes