



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201-2

CRWP-5114-2024 (O&M)

Date of Decision: 13.11.2024

PXXXX

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. ADS Jattana, Advocate for
 Mr. Sandeep Gehlawat, Advocate for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

Mr. Gurinder Singh Dhot, Advocate for respondent No.5.

NIDHI GUPTA, J. (ORAL)

Prayer in the present Criminal Writ Petition under Article 226 of the Constitution of India is for issuance of Writ in the nature of Mandamus for issuance of direction to respondent No. 2 to 4 to protect the life and liberty of petitioner, which is in imminent danger at the hands of respondent No.5; **AND** further for issuance of directions to respondent No.2 to 4 to conduct fair, proper and impartial investigation in case F.I.R. No. 187 (Annexure P-3), dated 21.05.2024, under Sections 376, 506 IPC, Police Station Zirakpur, District SAS Nagar (Mohali), registered at the instance of petitioner against respondent No.5 as now respondent No.5 along with some antisocial elements is roaming around the house of petitioner and extending serious threats to the petitioner while putting



pressure upon her to withdraw the aforesaid F.I.R. registered against him;
OR in alternate to hand over the investigation of the case F.I.R. to some Senior Police Officials not below the rank of S.P. or to constitute Special Investigation Team (SIT) as respondent No.3 and 4 does not want to adhere to the repeated humble requests made by the petitioner to arrest respondent No.5 and to investigate the matter in a fair manner.

The present FIR No. 187 (Annexure P-3), dated 21.05.2024, under Sections 376, 506 IPC, Police Station Zirakpur, District SAS Nagar (Mohali), was registered at the instance of petitioner against respondent No.5 with the following allegations: -

"I, XXXX, aged about 33 years, wife of Sh. Ajay Kumar, resident of Kaithal, Haryana; now residing at Flat No. 186-C, Platinum Homes, Old Ambala Road, Village Sanauli, Zirakpur, District SAS Nagar (Mohali). I have two children, namely, Vironika (age 9 years old) and Aarav (age 6 years old).

In the month of September 2020, I along with my husband and children shifted at District Mohali for better education of children and in year 2021, my husband purchased a flat in Platinum Homes Society. There is a grocery shop called as Saini Mart, situated outside the gate of Platinum Homes Society which is being run by above Hardeep Saini. In the month of December 2021, when I went at Saini Mart to purchase some grocery then Hardeep gave his mobile number to me while saying that I can place the order for grocery items etc. through Whatsapp as there is facilities of Home Delivery also; thereafter, he started calling me. In the month of January 2022, my husband was not at home, I had gone to a get together function at a Hotel



at Zirakpur, where above said Hardeep was also invited and the moment he saw me in the party, he offered me a cold drink, which was duly mixed with some alcoholic/intoxicant substance and after drinking the same, I became unconscious. He asked me that he would drop me at my house, I refused but he remained adamant and while taking the benefit of my unconsciousness, he pressurized me to accompany him and finally he took me in his car and dropped me at my flat. I was almost unconscious at that time but when I was in his car, he committed wrong acts with me while establishing forcible physical relation with me, while taking the benefit of my unconscious.

Next morning when I woke up I found some injuries on my body and I came to know that above Hardeep has taken the advantage of mine after serving alcohol/intoxicant substance to me. I made a telephonic call to him and told him that I am going to Police Station to make complaint against him, upon which he asked me to meet him once and I immediately rushed at Saini Mart where he showed me my obscene photographs in his mobile phone. I told him that when and why these photographs were clicked, upon which he told me that it will take a minute only to viral those photographs on social media etc., I got frightened, I shouted at him but Hardeep threatened me that in case I make any kind of complaint or resist then he can cause any physical harm to me and my minor children. I was unable to think as to what has happened with me and what is to be done now but Hardeep was not ready to delete those photographs rather he started blackmailing me by saying that I have to make physical relations with him as and when he ask for the same, otherwise, he will viral my nude photographs which he clicked while I was lying unconscious.



Thereafter, since the day he clicked my photographs, he is physically and sexually exploiting me while showing my photographs to me. After some time, I told him that I am pregnant, upon which he took me at Bliss Hospital situated at Sector 20, Panchkula where he was having a friendly doctor, who was known to him and he got my abortion done and even the payment at the Hospital was made by him. He also gave me beatings a number of times. He told me that he is having good relations with the owner of one Hotel, namely, Aashish at Jabli near Mc Donald (H.P.) and also with the owner of Hotel Kaveri at Zirakpur and he used to take me at the very same Hotels to satisfy his lust for sex. I thought a number of times to make a complaint in this regard to the Police Officials but he told me he is having good relations with Senior Police Officials.

I told him that I cannot tolerate his conduct and I had become fed up from all his activities and I will make a complaint regarding all above to his wife and police officials upon which he gave severe beatings to me and also put gun at my head; he told me that he is having many unlicensed weapons. He also threatened me to handover my gold ornaments to him as he was having some need of money when I refused, he again gave me beatings and due to the threats extended by him, I gave him my gold necklace, gold bangles and earrings to him, which are still in his possession.

I kept on bearing all his atrocities as he used to blackmail me and I was not having any other option except to follow his instructions. Even yesterday also i.e. 20.05.2024, he called me a number of times on my mobile phone and threatened me to accompany him at a Hotel, I refused for the same then he sent his peon on a scooter at my house and threatened me to sit on the scooter and to reach



at Zirakpur, however on the way he met me and forced me to sit in his car bearing Registration No. PB 65 BC 9161, Make SKODA SLAVIA and then he took me at Kaveri Hotel at Zirakpur. He took me in a room and then he gave me threats of dire consequences, he established physical relations with me, forcibly against my wishes, when I shouted then he gave me severe beatings, he was having a wooden stick also and caused many injuries on my back and right shoulder. I kept on crying then he gave kick and fist blows to me upon which the staff of Hotels came there and I requested them for help upon which the Hotel staff asked Hardeep to vacate the room immediately. I requested the staff of Hotel, who called my husband and when my husband reached over there, I told him the entire true story then my husband entered into a scuffle with above Hardeep but Hardeep ran away from the Hotel. Feeling ashamed of all this, I came back at my home and under the fear of losing dignity, I remained silent but now I have come to you to report the matter and for taking legal action against Hardeep.

I request you with my folded hands that strict legal action may kindly be taken against above Hardeep for making my life hell, for giving threats, beatings and committing rape upon me while sexually exploiting me."

A Status Report dated 30.09.2024 has been filed by way of an affidavit of the Deputy Superintendent of Police, Sub-Division Zirakpur, District SAS Nagar, on behalf of respondents No.1 to 3. In regard to the allegations made by the petitioner in the above said FIR, reference may be made to the averments made in para-Nos. 9 and 10 of the above-mentioned status report, wherein it has been stated as under: -



“9. That from the perusal of CCTV footage it was revealed that on the given date the accused-respondent no.5 and the present petitioner had come together to the aforesaid Hotel in a car and after spending sometime there, when they were coming out of hotel premises, then two unknown persons who were already present on road outside hotel, had manhandled the accused-respondent no.5 and taken him in a corner. As such case diary no. 4 dated 24.05.2024 was recorded in that regard and the matter as regards the scuffle taken place was kept open for investigation.

10. That thereafter, the statement of petitioner under Section 164 Cr. P.C was got recorded before the Ld. Court of Competent jurisdiction on 27.05.2024 and her medical examination was got conducted from Civil Hospital, Dhakoli on 29.05.2024.”

Thus, upon investigation it was found that accused/respondent No.5 had booked a room No. 204 in Kaveri Hotel, Zirakpur on 20.05.2024 and there is an entry to that effect in the Hotel register. As per the CCTV footage obtained from the hotel premises, it was also found that on the given date i.e. 20.05.2024, the accused/respondent No.5 and the present petitioner/complainant had come together to the aforesaid Hotel in a car, and after spending sometime there, when they were coming out of the hotel premises, two unknown persons who were already present on the road outside the hotel, had manhandled the accused/respondent No.5 and had taken him in a corner, where a scuffle had taken place. In this regard, diary No. 4 dated 24.05.2024 was recorded.



It is further mentioned in the Status Report that thereafter, on 27.05.2024, statement of the petitioner was recorded under Section 164 Cr.P.C. and her medical examination was got conducted. As per MLR dated 25.05.2024 (Annexure R-1), 3 injuries were reported on the person of the petitioner. As such vide DDR No.38 dated 20.06.2024, offence under Section 323 IPC was added to the present FIR no.187 (Annexure P-3), dated 21.05.2024. During investigation, the petitioner has admitted that she went to Kaveri Hotel on 22.05.2024 on the asking of respondent No.5 on her own; and has also claimed that respondent No.5 owed Rs.4 lacs to her husband Ajay Sharma. The husband of the petitioner has joined investigation on 27.07.2024.

It has further been mentioned in the said Status Report that the matter is still under investigation. However, it is established that both the parties were present at the time of occurrence i.e. 20.05.2024. It was also proved that there was a scuffle between respondent No.5 and the husband of the petitioner, and one other unknown person. As per medical summary dated 22.05.2024 (Annexure R-2), of respondent No.5, in the said scuffle, he has suffered *“fracture ulna left with lacerated wound left leg; pain and swelling over left forearm; and lacerated wound over left leg 3 x 2 cm.”* As such, respondent No.5 has registered an FIR No. 0308 dated 14.07.2024 under Sections 323, 341, 342, 325, 506, 356, 34 IPC against the petitioner, her husband Ajay Sharma, and the one other unknown person. In the said FIR No. 0308 dated 14.07.2024, respondent no.5 has alleged that he came across the present petitioner during her visits to his grocery store in the year 2022. She took his contact number



on the pretext of ordering grocery items (goods) and taking its home delivery. Thereafter, she started sending him WhatsApp messages and, in this manner, gradually developed friendship with him. Thereafter, she cited her financial troubles and started purchasing grocery items from him on credit basis and also borrowed a sum of Rs.3,60,000/- from him. Thereafter, on his demand to return money borrowed from him and warning to report the matter with police authorities on her failure to do the same, the petitioner in connivance with her husband Ajay Sharma, on 20.05.2024 on the pretext of returning him the amount borrowed from respondent No.5, called him at Kaveri Hotel, Zirakpur; and after they entered room No.204 for the aforesaid purpose, she asked him to pay Rs.5,00,000/- more to her, and threatened to get a false rape case registered against him on his failure to fulfill her demand. After that, when the respondent No.5 was returning from Hotel premises and was about to sit in his car, then the present petitioner, her husband and one unknown person, who were already present there encircled him. Thereafter, the husband of present petitioner and said unknown person caught hold of him from his arms and took him to the basement of the adjoining building. The petitioner also followed them there. After that, respondent No.5 was tied and given beatings with wooden stick on his legs and arm by the husband of petitioner and said unknown person, which resulted in serious injury on his leg and alleged fracture in arm. In addition, the petitioner and said persons snatched his two gold rings and removed cash amount of Rs.60,000/- that he was carrying.



The motive of occurrence in the above said two FIRs is yet to be determined during the course of investigation.

Admittedly, in compliance of order dated 03.07.2024 passed by this Court in a connected petition bearing CRM-M-30996-2024, respondent No.5 has joined investigation on 11.07.2024 in the present FIR no.187 dated 21.05.2024 and is stated to be cooperating with the Investigating Agency.

In view of the facts as noticed above, it is clear that this is the case of allegations and counter allegations. The correct facts are yet to be determined upon investigation in respect of the incident dated 20.05.2024. It is, however, clear from the CCTV footage that the petitioner entered in Kaveri Hotel premises alongwith accused/respondent No.5 willingly and after spending some time, they had come out of the hotel premises, whereupon respondent No.5 had been attacked by the husband of the petitioner and the other unknown person in respect of which, respondent No.5 has registered FIR No. 0308 dated 14.07.2024. It is also admitted that the respondent No.5 has joined investigation in the present case. It also appears that the present is a money dispute between the parties.

Thus, keeping in view the facts as noticed above, no further directions are required to be issued in the present case.

The present petition stands **disposed of**.



Pending application, if any, stands disposed of.

13.11.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No