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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36928-2024 (O&M)
Date of decision: 01.08.2024

Jaspal Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Puja Chopra, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for issuance of directions to respondents No.1 & 2 to conduct re-investigation/further investigation in FIR No.26 dated 11.04.2024 under Sections 363, 366-A of the Indian Penal Code, 1860 (for short 'IPC') (challan has been presented under Sections 363, 366-A, 120-B, 212 of IPC), registered at Police Station Sanaur, District Patiala, from some independent agency outside District Patiala or some senior police officer.
2. Learned counsel for the petitioner, *inter alia*, contends that keeping in view conduct of the jurisdictional police authorities, it is a fit case



to exercise the powers under Section 173 (8) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'). It is further contended that initially, when minor daughter of the petitioner was enticed away, the jurisdictional police authorities had not registered the FIR promptly and only DDR was registered and thereafter, when his daughter was recovered, she was made to sit in another vehicle and produced before the jurisdictional Magistrate and the petitioner was not allowed to meet her. The investigating officer extended threats to daughter of the petitioner to depose in favour of the accused at the time when her statement under Section 164 Cr.P.C. was recorded and she was sent to Nari Niketan. Thereafter, she called the petitioner and informed him about her ordeal and after that, the petitioner got her released on 17.05.2024, as discernible from the order passed by Child Welfare Committee, Patiala (Annexure P-4). The investigating officer has not conducted the investigation in right earnest and the offences that are made out from the allegations, have not been added and the final report has been filed in a biased manner by giving undue advantage to the accused, which has caused great prejudice to the petitioner and his daughter-victim. Therefore, after filing of the final report, the petitioner was left with no other option, but to approach this Court seeking further investigation.

3. *Per contra*, learned State counsel appears on advance notice and submits that present petition is totally misconceived. The daughter of the petitioner was recovered on 30.04.2024 and immediately, she was produced



before the jurisdictional Magistrate, who recorded her statement under Section 164 Cr.P.C., in which she categorically stated that she knew accused Sahil for the last 02 years and they both were in constant touch and used to talk on mobile and her parents used to often beat her. She informed about this to Sahil and earlier he refused to take her, but on her insistence that otherwise, she will commit suicide, he agreed to take her. On 05.04.2024, she went to Jind from Patiala. After reaching Jind, she made call to Sahil and he came to pick her from the bus stand and took her to the house of his aunt and stayed there till 14.04.2024 and from 14.04.2024 till 29.04.2024, they stayed at Fauji Colony and on 29.04.2024, the police intercepted them. Learned State counsel further contends that after daughter of the petitioner made a categoric statement, the jurisdictional Magistrate passed the order sending her to shelter home. The investigating agency has conducted the investigation in the right earnest and filed the final report under Section 173 Cr.P.C. In case the petitioner is aggrieved by the addition or deletion of any offence, he can raise arguments at the time of framing of charges. The petitioner has not intentionally attached statement of daughter of the petitioner recorded under Section 164 Cr.P.C. with the present petition.

3. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that according to first version of daughter of the petitioner recorded under Section 164 Cr.P.C., she herself had gone to Jind by boarding a bus and called accused Sahil to come at



bus stand and such statement recorded before a judicial Magistrate under the provisions of Section 164 Cr.P.C. is more sacrosanct.

4. Keeping in view the facts and circumstances of the case, this Court finds no force in the arguments advanced by learned counsel for the petitioner. Accordingly, present petition is dismissed being bereft of any merit.

01.08.2024
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[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No