

2024:PHHC:104148



**110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38657-2024(O&M)
Date of decision: 09.08.2024

Saresh Bee

...Petitioner

Versus

State of Haryana and others

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanawar Ali, Advocate for
Mr. M.D. Khan, Advocate
for the petitioner.

HARPREET SINGH BRAR, J.(Oral)

1. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking issuance of directions to respondents No.1 & 2 to transfer the investigation of case stemming from FIR No.90 dated 21.06.2024 under Sections 365, 376(2)(n), 376-DA, 506 IPC, registered at Police Station Utawar, District Palwal, to an independent investigating agency.

2. Briefly, the facts are that on 15.08.2023, the victim-minor daughter of the complainant was dragged by the accused into the fields, where she was raped. The accused also recorded an obscene video of the same and threatened to upload it on the internet, if she disclosed about the said incident to anyone. Thereafter, on 10.02.2024, the accused forcibly kidnapped the victim and locked her family inside the house. The victim was



later found lying unconscious in the field of one Rafiq. The accused have been threatening the victim and her family.

3. Learned counsel for the petitioner contends that the petitioner is the mother of accused-Sahood and aunt of accused-Rizwan. The petitioner has two sons, both of whom are truck drivers and were plying their respective trucks out of Haryana at the time of the alleged incident. The complainant had previously implicated the petitioner's husband and her brother's son in false complaints as well. However, the allegations were found to be false. The mobile number mentioned qua the said incident was assumed by Rizwan after the date of incident. Moreover, on 10.02.2024, Rizwan had recharged the mobile number of the complainant through his Paytm account. As such, it is evident that the narrative alleged by the prosecution is concocted. The petitioner had made many representations to initiate proper investigation, however, no action has been taken till date. The complainant party exerts political influence, which is hampering proper investigation into the matter. Therefore, the investigation must be transferred to any independent agency.

4. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance.

5. It is settled law that where a Constitutional Court is satisfied that accusation is against a person, who by virtue of his office, could influence the ongoing investigation and cause prejudice to the complainant



or the victim, it 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. A reference in this regard can be made to *Rashmi Behl Vs. State of Uttar Pradesh and others, 2015 (2) RCR (Criminal) 45*, *State of Punjab Vs. Davinder Pal Singh Bhullar and others, 2012 (1) RCR (Criminal) 126*, *State of Punjab Vs. Central Bureau of Investigation and others, 2011(9) SCC 182*, *State of U.P. and others Vs. State of UP, 1994 AIR (Supreme Court) 38* and *Kashmeri Devi Vs. Delhi Administration, 1988(2) RCR (Criminal) 44*.

6. However, learned counsel for the petitioner has not been able to indicate any instance where the investigating agency has failed to perform its duty. As such in the absence of any material to indicate any implicit bias qua the conduct of the jurisdictional police authorities which undermine the fairness and reliability of the investigation, the same cannot be transferred on the *ipse dixit* of the accused.

7. Accordingly, the present petition is dismissed. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

09.08.2024
vishnu

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