



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-23665-2024

Date of decision: 22.10.2024

RXXXX XXXXXX

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Ms. Aiman J. Chishti, Advocate,
Ms. Ayushi Sharma, Advocate and
Mr. Sunpreet Singh, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

Prayer made in the present writ petition is for transfer of the investigation, in case arising out of F.I.R. No. 0221 dated 15.07.2024 registered under Sections 376-D and 506 of the Indian Penal Code, 1860 at Police Station Division No.7, Police Commissionerate, Ludhiana. to the Special Investigating Team (SIT) headed by a Senior Level I.P.S. Officer.

2. Learned Counsel for the petitioner has vehemently argued that the petitioner, aged 32 years old is a widow, who migrated from Jharkhand to Ludhiana, in search of livelihood and is working as a labourer in one National Industry Company. One Kuldeep (accused in the FIR) was also

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working in the same company and he proposed to the petitioner for entering into a marriage with him. She however refused acceptance of the proposal. The said Kuldeep thereafter started interfering with her work and created an intimidating and hostile work environment for her. He also introduced her to his friend Mani (co-accused in the FIR) and gave the contact number of the petitioner to him. They started continuously calling the petitioner at odd hours and that on account of the fear caused by the aforesaid two persons, she left the National Industrial Company and joined another company namely Neelam Cycle Company. On 27.05.2024, accused called her on the pretext that he wanted to take her to his home to discuss regarding Widow Pension Scheme and that they could help her in getting the said benefits. She accepted the invitation whereupon Kuldeep and Mani @ Raman, came to the petitioner to take her along with them. They took her to Hotel namely “J Cruise” situated at Samrala Chowk, Ludhiana where the petitioner alleges to have been subjected to gang rape by Kuldeep & Mani @ Raman who also are alleged to have recorded the incident in a video. A complaint was thereafter submitted by the petitioner, about the incident, but the Police did not register the case. Another complaint was submitted on 30.05.2024 and it was only much later, on 15.07.2024, that the FIR in question was got registered. She argues that the petitioner was initially forced to enter into a settlement with the accused persons and they also obtained signatures of the petitioner on a compromise deed dated 05.06.2024 in which the accused persons admitted that they had committed wrongful acts with the petitioner.

3. Counsel further contends that the NGO that had helped the petitioner in getting the FIR registered was thereafter harassed by the Police

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officials and an FIR for commission of offence under Section 384 IPC was also registered against the said NGO as well. She contends that all the steps were being initiated by the police to harass and intimidate the petitioner to enter into a settlement with the accused persons and to withdraw from the proceedings.

4. Pursuant to the notice issued by this Court, a reply by way of an affidavit of Sumit Sood, PPS, Assistant Commissioner of Police, East, Ludhiana was filed before this Court. A copy thereof was furnished to the Counsel for the petitioner as well. It was specifically averred in the above said reply that FIR No. 0221 dated 15.07.2024 was registered under Section 376-D read with Section 506 IPC against the said accused person. On the same day i.e. 15.07.2024, she got her statement also recorded before the JMIC, under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 wherein she stated she had been taken to the Hotel by Kuldeep and inside the hotel room, the accused started touching her body parts and somehow she managed to escape from the hotel. There was thus no allegation leveled by the petitioner about her being subjected to sexual inter-course or any act as would attract the provisions of Section 376-D of IPC.

5. Taking into consideration the statement of the petitioner recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 by the Illaqa Magistrate and noticing that no offence under Section 376-D of the IPC was made out, hence, the same was deleted and offence under Section 354-A was instead added on 19.09.2024, after taking approval from the competent authority and advice from the District Attorney (Legal). The said accused were also arrested in the above FIR on 20.09.2024 and the



offences being bailable, they were released on bail as per law.

6. It was also averred in the reply that the allegations about the Police authorities pressuring the petitioner to enter into a settlement with the accused persons by obtaining her signature(s) on the compromise deed dated 05.06.2024 were also false as prosecutrix had herself purchased the stamp papers in her own name and signed the compromise in the presence of the witnesses. The said compromise was produced before the Investigating Agency by the prosecutrix herself alongwith her affidavit dated 25.07.2024 wherein she acknowledged the compromise having been entered between her and the accused. The affidavit was duly attested by the Executive Magistrate, Ludhiana. The said compromise bore her picture, as required for attestation of the documents. Hence, there was no occasion for the Police to pressurize the petitioner into entering any settlement with the accused persons. Further, insofar the allegation about the FIR No. 0223 dated 18.07.2024 having been registered against the NGO for offence under Section 384 IPC is concerned, it has been informed that the said FIR had also been registered on the statement of petitioner herself wherein she leveled allegations against Karam Chand and Budh Ram of the said NGO. She is thus the complainant in the said FIR herself and there is no occasion for the Police to register any false case against the said NGO. Notwithstanding that the said reply had been filed by the respondent and copy thereof had been furnished to the petitioner, no rejoinder/replication controverting the factual aspects have been submitted by the petitioner.

7. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents available on record.



8. The factual aspects as raised in the reply filed by the respondent-State about the petitioner having got her statement recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 wherein no allegations of rape have been made out remain uncontroverted alongwith the fact that the compromise itself was got attested by the petitioner before the Executive Magistrate alongwith her photograph, after having purchased the stamp papers on which the affidavit was typed. Further, the prosecutrix herself has been the complainant in the FIR that had been registered against the NGO which such fact has also not been controverted.

9. There is also no allegation against the Investigating Officer about his committing any misconduct or steering investigation only to demolish the case of the prosecutrix. No relationship or *prima facie* bias of the Investigating Officer, with the accused, or malice against the petitioner is also made out.

10. Under the given circumstances, I do not find sufficient grounds exist as would justify transfer of investigation of the case to be conducted by any senior level officer. Under the garb of projecting victimization, a complainant cannot be permitted to steer the investigation being conducted by the Investigation Officer. There is no material on the basis whereof this Court may *prima facie* hold that the investigation is being mis-directed on purpose and/or to cause prejudice to the petitioner. The present writ petition is dismissed at this stage.

11. Needless to mention that the observations recorded herein above are solely for the adjudication of the instant writ petition and should have no bearing on the final outcome of the investigation that may be



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conducted by the Investigating Agency. The petitioner shall be at liberty to take all pleas that are available to her, before the appropriate Court in accordance with law, which shall be dealt with by the trial Court as per its own merits.

Ordered accordingly.

(VINOD S. BHARDWAJ)
JUDGE

OCTOBER 22, 2024
Vishal Sharma

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