

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107

CWP-23951-2023 (O&M)
Date of decision: 11.01.2024

Rajiya ...Petitioner
VERSUS
State of Haryana and others ...Respondents

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

Present :- Mr. Sanawar Ali, Advocate for the petitioner.
Mr. Vivek Saini, Addl. AG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

CM-18141-CWP-2023

Application is allowed as prayed for.

Main case:

Prayer in the present petition was for directing respondent No.3-Superintendent of Police, District Nuh, Haryana, for transfer of investigation in FIR No.357 dated 17.08.2023 registered under Sections 323, 376, 316, 452 read with 34 IPC at Police Station Sadar Tauru, for a fair and impartial investigation.

Affidavit dated 09.01.2024 of Narendra Bijarniya, IPS, Superintendent of Police, Nuh and the status report by way of affidavit dated 10.01.2024 of Lady ASI Sunita No.173/Nuh, Investigating Officer, PS Sadar Tauru, District Nuh, have been filed today in the Court. The same are taken on record.

Learned counsel for the petitioner contends that marriage of the petitioner was solemnized with Inaam son of Ismail, resident of village Khori on 12.03.2023 and that on 26.07.2023 when the petitioner was cleaning house, Shahbaz-brother of the husband of the petitioner, locked the room and committed rape upon her. When the entire incident was narrated by the petitioner to her husband and his family members, they asked her to stay silent, when opposed the petitioner was given beatings as a result thereof she suffered miscarriage. The incident was reported to the police whereupon the above said FIR has been registered. Further allegations were levied that the petitioner was being pressurized to compromise the matter and not to proceed against the accused persons.

The status report was called for whereupon the Investigating Officer filed her affidavit dated 04.11.2023 wherein she gave details of the investigation conducted by her including the fact that on 26.07.2023 the petitioner herself stated that her mental condition is not stable and that she will get her statement recorded later in point of time. The Investigating Officer also reached the Civil Hospital, Nuh and collected MLR and swabs. In her statement recorded on 17.08.2023 the date of registration of FIR, she informed that her mother-in-law Maiman, sister-in-law (nanad) Karishma and father-in-law Ismail came there and stopped her from making noise. Her brother came there to rescue but he was hit by an axe by her husband Inaam. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. before the Judicial Magistrate 1st Class, Nuh, and the swabs have been sent to RFSL Bhondsi for examination and report. At the same time,

she (Investigating Officer) was being pressurized to initiate false proceedings and a General Diary No.36 dated 18.09.2023 was recorded by her for having received a call from Mob. No.89301-81851. She further apprised that the petitioner was also sent notices to attend the office of Deputy Superintendent of Police, Nuh for verification of facts, but she did not get the facts verified. The CCTV footage of 26.07.2023 was also obtained with respect to the allegations against Shahbaz qua which the medical opinion was sought and the allegations of abortion were also being examined by seeking opinion from the Medical Officer.

Taking note of the aforesaid affidavit, the Superintendent of Police, Nuh was directed to file an affidavit vide order dated 07.12.2023 on account of an interference in the investigation being conducted by the Investigation Officer.

In compliance of the said order, affidavit of Narendra Bijarniya, IPS, Superintendent of Police, Nuh has been filed today in the Court wherein the details of the investigation have been laid out as has been mentioned in the affidavit filed by the Investigating Officer. It is also averred that the mobile No.89301-81851 was found to be issued in the name of one Vishaw Kumar @ Bhalu, who is son of Former Member of Legislative Assembly from Hathin Constituency-Harsh Kumar. It is contended that he had made a call to the Police Officer only to ensure that a fair investigation is conducted and there was no occasion of pressuring any person indecently. It has also come to notice that on a perusal of customer application form against mobile No.89301-81851, it was found that the same

was in the name of one Rafik s/o Jummal resident of Khaika, Tehsil Hathin, District Nuh, but the same is being used by aforesaid Vishaw Kumar @ Bhalu s/o Harsh Kumar.

Mr. Sanjiv Gupta, Advocate, enters appearance on behalf of the Investigating Officer (LSI Anju) and submits that the Investigating Officer is now being pressurised at the instance of Senior Officers under the political influence and that an FIR No.262 dated 13.12.2023 under Sections 7 and 13 of the Prevention of Corruption Act has been registered against LSI Anju at Police Station Nagina on the complaint of one Deen Mohd son of Sallu, Mathepur, Police Station Hathin, District Palwal, who infact is father in law of sister of Rajiya, who is the petitioner-complainant in FIR No. 357 of 2023. He contends that the above said Deen Mohd. had initially alleged that Rs. 4 lakhs have been paid to the SHO and that the SHO returned the same whereupon a sum of Rs.3.50 lakhs is alleged to have been handed over to the Investigating Officer/Lady SI Anju without any motive or for no purpose. She has been thereafter suspended and a regular departmental enquiry has been initiated against her and entrusted DSP, Tauru for furnishing findings. Apprehending her arrest in the above said false case, she had preferred a petition for anticipatory bail wherein she has been granted interim protection.

Learned counsel for the LSI Anju (now suspended) also contends that the FIR registered against her be also transferred for a fair investigation since the initiation of the said proceedings is on account of political influence and pressure exerted by the District Administration.

The learned State counsel disputes the allegations that have been levelled by the petitioner as well as the LSI Anju, however, he has no objection if the investigation of the case is being transferred to any other agency for maintaining sanctity of the investigation and the confidence in the proceedings undertaken thereof.

Accordingly the investigation of case FIR No.357 dated 17.08.2023 registered under Sections 323, 376, 316, 452 read with 34 IPC at Police Station Sadar, Tauru and FIR No.262 dated 13.12.2023 registered under Sections 7 and 13 of the Prevention of Corruption Act at Police Station Nagina, are ordered to be transferred and the said investigation is directed to be carried out by an SIT that may be so constituted by the Inspector General of Police, South Range, Rewari.

The parties undertake to cooperate in the investigation of the cases and to appear before the SIT/Investigating Agency as and when required to do so.

(VINOD S. BHARDWAJ)
JUDGE

11.01.2024

Mangal Singh

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