

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

113

CRM-M-63686-2023 (O&M)
Date of decision: 15.02.2024

Bindu Rani

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. seeking issuance of direction to respondent Nos. 2 and 3 to conduct a fair and impartial investigation in FIR No. 296 dated 15.09.2023, registered under Sections 376, 120-B of IPC and Section 4 of the POCSO Act, 2012 at Police Station B-Division, Amritsar; to add Section 313 of IPC in the FIR and submit the final report in the matter qua respondent Nos. 5 to 8 and to provide protection to the petitioner and her family at the hands of respondent Nos. 5 to 9 and his associates.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforesaid FIR was registered at the instance of the petitioner alleging therein that on 12.09.2023, she was telephonically informed by her 16 years' old daughter 'R' (*name withheld*) that she was residing with her cousin sister Mannat at Hotel Jade in Amritsar for the last about one month and

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the husband of her cousin had been harassing her to make physical relations. The petitioner immediately reached there and found her daughter outside the hotel. After sometime, she told her that husband of Mannat had made physical relation with her forcibly, due to which, she had started bleeding. Mannat and her husband had locked her in a hotel room. She further alleged that the accused persons took her to a house with the help of a friend of Mannat, where an unknown person also made physical relation with her. She stated that Mannat used to receive money for such acts. On this statement, the FIR was registered and the investigation proceedings have been started and the same is going on.

3. By way of filing the present petition, the petitioner is alleging that the police is not arresting the accused persons, rather, they are safeguarding them ignoring the fact that they have committed serious offences. The petitioner is also seeking addition of Section 313 of IPC in the FIR on the ground that due to aforesaid acts, the victim had become pregnant but she was subjected to assault by the private respondent, on account of which, she suffered a miscarriage. The petitioner is also seeking protection to her as well as her family members at the hands of private respondents.

4. Short reply, by way of affidavit of Additional Deputy Commissioner of Police, Special-cum-Crime Against Women & Children, Amritsar has been filed in Court today. The same is taken on record. It is submitted by learned State counsel that a proper investigation is being carried out in the matter and no interference by this Court is warranted at this stage. Hence, he has prayed for dismissal of the present petition.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. A perusal of the reply, filed by the respondent-State, shows that the statement of the victim was got recorded before the Magistrate under

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Section 164 of Cr.P.C. on 15.09.2023 and medico-legal examination as well as pregnancy test of the victim was conducted on 16.09.2023. The result of the pregnancy test was negative. During the course of investigation, the guest entry register of the said hotel has been taken into possession by the police on 16.09.2023. On the basis of the supplementary statements of the complainant as well as victim, Bobi, Jassi Nahar @ Laxmi and Gulshan have also been nominated as accused. Accused Mannat was arrested on 15.09.2023 itself. With regard to other co-accused, it is stated that raid was conducted their houses but they could not be arrested and non-bailable warrants have been issued against them. It is further stated that the matter is under investigation and on completion of the same, the final report shall be presented in the Court. At this stage, the aforesaid course of investigation, by no stretch of imagination, can be stated to be biased, prejudiced or lethargic. So far as the prayer of the petitioner for addition of Section 313 IPC in the FIR is concerned, it is well settled law that that the Court would not interfere with the investigation or during the course of the investigation which would mean that from the time of lodging of FIR till submission of final report under Section 173 Cr.P.C. to the Court. This field is exclusively reserved for the investigating agency. Reliance in this regard can be placed upon ***Union of India vs. Prakash P. Hinduja : (2003) 6 SCC 195.***

7. In view of the discussion made above, this Court finds not merit in the present case. Accordingly, the same is dismissed.

8. However, keeping in view the fact that the petitioner has expressed threat perception at the hands of private respondents, she is granted liberty to move a representation in this regard to respondent No. 2-

Commissioner of Police, Amritsar, which will be decided by him in

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accordance with law by passing a speaking order. Needless to say, if any threat is found to the petitioner or her family members, the official respondents would provide them adequate security in order to protect their lives and liberty.

15.02.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>