



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

CRM-M-64664-2023 (O&M)
Reserved on: 27th August 2024
Date of decision: 22nd November 2024

VXXXX **.....Petitioner**
versus

STATE OF UT CHANDIGARH AND OTHERS **.....Respondents**

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Nitin Sharma, Advocate
for the petitioner.

Mr. Vipin Pal Yadav, APP for U.T., Chandigarh.

HARPREET KAUR JEEWAN, J.

1. The present petition has been under Section 482 Cr.P.C. seeking fair investigation by some senior IPS officer or any independent investigation agency such as CBI, in FIR No.0109 dated 11.08.2023, under Sections 376(2)(n) and 323 IPC, 1860, registered at Police Station Sector-26, Chandigarh (Annexure P-2).

2. Learned counsel for the petitioner contends that the FIR was registered at the instance of the petitioner with the allegations of commission of rape by the accused. However, no action has been taken against the accused. The Investigating Officer/Sarita Rai-respondent No.6 has harassed the petitioner. Instead of taking an action against the accused named in the FIR, the petitioner was forced to face humiliation on the part of the employees of Police Station Sector 26, Chandigarh. The petitioner gave a complaint to the Senior Superintendent of Police dated 26.06.2023 (Annexure P-1), however, the statement of the petitioner/complainant was not recorded. Thereafter, the



petitioner sent her statement in writing dated 27.09.2023 (Annexure P-3). The petitioner was called by respondent No.6 but no action was taken on the complaint and the petitioner was orally told that the case will be transferred to the Delhi Police. The petitioner made a complaint about the inaction on the part of the Investigating Officer to the DGP and to other authorities (Annexures P-4 to P-8), however, till now, no action has been taken.

3. Status report dated 22.02.2024 on behalf of the official respondents by way of an affidavit of Deputy Superintendent of Police, East U.T., Chandigarh.

4. Learned State counsel contends that the complainant never disclosed about any incident that ever happened within the jurisdiction of the concerned Police Station, Chandigarh, as such, FIR Zero/109 dated 11.08.2023 has been sent to Delhi Police for necessary action after taking permission from the competent authority.

5. Counter-reply dated 20.03.2024 to the aforesaid status report has also been filed on behalf of the petitioner, submitting that the petitioner/complainant has never mentioned in her statement that accused met in Hotel Lemon Tree, Aerocity Road, New Delhi, as such, it is a case of unfair and unfavoured investigation.

5.1 Learned counsel for the petitioner reiterated that the petitioner is resident of Chandigarh, as such, the investigation should have been continued at Chandigarh.

6. I have heard learned counsel for the parties and perused the paper book.



7. The petitioner had submitted a written complaint dated 26.06.2023 (Annexure P-1/R-1), received vide reference ICMS-2023-015660 through online mode. In the said complaint, the petitioner has alleged that she was in relationship with the accused since the year 2016. The accused is alleged to have repeatedly made physical relationship with the petitioner on the pretext of marrying her. She was allegedly maltreated, assaulted and beaten up by the accused. It is further alleged that the petitioner, who was working as a Data Entry Operator in Military Hospital, Bareilly, got appointed as a Deputy Manager in INDUSIND Bank in Chandigarh. It is further alleged that the petitioner went to the residence of the accused in Gaya, where she was beaten up. She was told by the accused that all the promises made were only for physical relations. The petitioner was aggrieved by the repeated rape having been committed upon her by the accused on the pretext of solemnizing marriage with her.

8. After submitting the aforesaid complaint dated 26.06.2023 (Annexure P-1), the petitioner is alleged to have sent a written request dated 17.07.2023, requesting Inquiry Officer to hold the complaint until the matter is discussed with her parents.

9. As per the status report, the statement of the petitioner/complainant (Annexure R-3) was recorded on 24.07.2023 during the inquiry. As per the said statement, the petitioner is alleged to have disclosed that in the year 2016, she was working as a Data Entry Operator at Army Hospital in Bareilly, Uttar Pradesh. The accused-Madhu Sudhan, who was working as a doctor in the said hospital, proposed the petitioner for marriage. The said proposal was accepted by the petitioner. In January 2017, accused-Madhu



Sudhan took the petitioner to Delhi. She was taken to Hotel Lemon Tree in Aerocity, New Delhi, where, physical relations were made by the accused with the petitioner on the pretext of marrying her. She was taken to various hotels, where physical relations were made on the pretext of marriage. However, after few days, the petitioner became aware of the fact that Madhu Sudhan was already married. Thereafter, Madhu Sudhan expressed regret and told the petitioner that his relationship with his wife was strained and he would give divorce to his wife and marry the petitioner. However, in the year 2022, he flatly refused to marry the petitioner.

10. As per the Inquiry Report dated 04.08.2023 (Annexure R-4), after receiving the complaint (Annexure P-1/R-1), an inquiry was conducted. Both the petitioner and the alleged accused-Madhu Sudhan were joined in the inquiry proceedings and their statements were recorded. The Investigating Officer-Sarita Rai (respondent No.6) concluded that the complainant is only living in Chandigarh at present. However, nothing happened within the jurisdiction of Chandigarh. A recommendation was made to register a "Zero" FIR and to send the same to Delhi Police for further necessary action. The relevant portion of Inquiry Report dated 04.08.2023 (Annexure R-4) reads as under:-

"xxxxxxx

During the course of enquiry, complainant joined the enquiry and stated that she met with alleged Madhu Sudan at Bareilly UP for the first time. He made first physical relation with her at Hotel Lemon Tree, Aerocity, New Delhi and after that continued at many places. After few days of her relationship she came to know that Madhu Sudan is married person having one



kid. She tried to break up this relationship when she came to know about his marital status. But he continued the relationship on the pretext that he will give divorce to his wife and will marry her soon. However, he denied marrying her now.

Alleged Madhu Sudan also joined enquiry proceeding and given his written statement that he made physical relations with full consent of her. She knows about his marital status since the day one as his family and complainant lives in the same campus in Bareilly. After few days of relationship she started blackmailing him with the threat that she will spread his pics in social media and to his wife. Out of fear and under threat he spent/transferred for more than Rs.5/6 lacs by till now. (Bank Transactions attached herewith). On one occasion, she disclosed everything to his wife, family and friends and defamed him on every platform by social media and in-person. He also attached few chats which show that she is blackmailing him.

However, nothing happened in the jurisdiction of Chandigarh. Complainant only lives in Chandigarh at present. Hence, we may register "Zero" FIR, if permitted, and sent it to Delhi Police for further necessary action through proper channel."

11. Thereafter, FIR No.0109 dated 11.08.2023 was registered at Police Station Sector 26, Chandigarh (Annexure R-5) and as per the communication dated 16.08.2023, addressed by the Senior Superintendent of Police (respondent No.4), the matter was sent to the Commissioner of Police, Delhi for further necessary action. It was observed that the occurrence took place at Hotel Lemon Tree, Aerocity Road, New Delhi, as such, the matter primarily pertains to the Delhi Police.

12. The petitioner is aggrieved by the transfer of the proceedings in



the FIR to Delhi, as such, she had sent a communication dated 27.09.2023 (Annexure P-3), which is subsequent to the registration of the FIR and the transfer of the FIR to Delhi Police. In the said communication, the petitioner has alleged that the accused had committed rape upon her at various places, including Chandigarh. In none of the written communications sent by the petitioner to the Police, prior to registration of the FIR, the petitioner has alleged that any such occurrence took place in Chandigarh.

13. The facts and circumstances referred above indicate that actually, the petitioner is aggrieved by the action of respondents No.1 to 6 for transfer of the proceedings in the FIR to Delhi through communication dated 27.09.2023 (Annexure P-3). However, the petitioner has not challenged the said communication.

14. Prayer has been made in the present petition seeking an order for fair investigation in the FIR under the supervision of a senior IPS officer or any independent agency like CBI. Further prayer has been made for issuance of a direction to the Superintendent of Police, Chandigarh Administration, Vigilance Department, to complete departmental action. Neither the petitioner has made any representation to the departmental authorities challenging the action of transferring the investigation vide communication dated 27.09.2023 (Annexure P-3) nor any prayer has been made in the present petition for setting aside the said communication. As such, no direction to the official respondents is called for.

15. Keeping in view the facts and circumstances of the present case, the present petition is disposed of with liberty to the petitioner to avail



appropriate remedy seeking transfer of investigation from Delhi to Chandigarh or any other appropriate remedy, as per law.

16. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22nd November 2024
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>