
(1997) 01 P&H CK 0081

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Nos. 15575-M and 17299 of 1996

Bhupinder Kaur

APPELLANT

Vs

State of Punjab through Home Secretary, Punjab

RESPONDENT

Date of Decision : 21-01-1997

Acts Referred:

Citation : (1997) 4 AICLR 34 : (1997) 2 RCR(Criminal) 244

Hon'ble Judges : K.K.Srivastava, J

Advocate : G.S. Nihal Singhwala, Advocates for appearing Parties

Judgement

K.K. Srivastava, J.

1. By means of a petition filed under Section 482 Cr.P.C., the petitioner prays for issuance of a direction to SSP, Police District Ropar and SHO, Police Station, Phase8, Mohali, District Ropar/respondents No. 2 and 3 respectively for registering a case under Sections 363, 366, 376 and 379 IPC and such other relevant sections of the IPC, which might be attracted in respect of the incident which took place on 10.4.1996 by which cognizable offences have been committed by respondent No. 4/Kewal Singh.

2. Notice of motion was issued to the respondents. The official respondents (Nos. 2 and 3) are represented by the learned AAG for the State of Punjab.

3. The incident, referred to above, took place in the house of the petitioner, where respondent No. 4 allegedly took away Gurbinder Kaur daughter of the petitioner, as also the valuable articles, including cash. The petitioner was away from her house when the incident took place and on her return to the house, she came to know about it. Thereafter she accompanied by her husband went to police station Phase8, Mohali, to report the matter on 10.5.1996 at 6.00 p.m., when they were asked to visit the police station the next day and bring the complaint in writing. The next day, a written complaint was filed, a copy of which has been annexed as A1 with this petition. It was alleged that nothing was done regarding the registration of the case. The narration of the incident discloses the

commission of a cognizable offence. Section 154(1) of the Cr.P.C. provides as under :

"Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf."

4. The written statement on record shows that the registration of the case was resisted on merits on the ground that Gurinder Kaur had married respondent No. 4/Kewal Singh and a copy of DDR No. 26 dated 30.3.1996 (Annexure R1) was filed in that regard. The written statement is more confined to the merits of the case than to the claim regarding non registration of the case. The registration of the FIR is mandatory in cases where commission of cognizable offences has been disclosed. It is only after registration of the FIR that the police will investigate into the matter and if no case is made out the police/Investigating Agency is at liberty to file a cancellation report and if the allegations made in the FIR are prima facie found correct, then a challan has to be filed as per provisions of Section 173 Cr.P.C. The police cannot prejudge the issue and refuse to register a case because it feels that on merits perhaps the allegations made by the complainant are not true.

5. That being so, respondents No. 2 and 3 are directed to register a case on the complaint filed by the petitioner, a copy of which is Annexure P1.

6. The petition stands disposed of accordingly.