
(2016) 03 P&H CK 0191
In the Punjab And Haryana At Chandigarh
Case No : Criminal Misc. No. M-24870 of 2014.

Mst. Farzana

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-03-2016

Acts Referred:

Penal Code, 1860 (IPC) — Section 182

Citation : (2016) 5 RCRCriminal 30

Hon'ble Judges : Daya Chaudhary, J.

Bench : Single Bench

Advocate : Kunal Dawar, Advocate, for the Appellant; Baljinder Singh Virk, DAG, Haryana, Advocate and Ashit Malik, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Daya Chaudhary, J. - This petition has been filed under Section 482 Cr.P.C. for quashing of Calendra under Section 182 of Indian Penal Code (for short "IPC") registered vide DDR dated 20.12.2013 along with all consequential proceedings.

2. Briefly, the facts of the case are that FIR No.23 dated 22.01.2011 was registered under Sections 323, 452, 376(G) IPC against Wasim (since deceased), Asgar, Irshad, Mubarik and Mustak. As per the allegations levelled in the FIR, the petitioner was 17 years of age and on 17.01.2011 at about 10.00 pm, while she was sleeping all alone in her house, the accused persons entered into her house and accused Wasim and Mustak committed rape upon her whereas accused Asgar and Irshad caught hold of her from hands and accused Mubarik gagged her. After hearing cries of the petitioner, the villagers gathered at the spot and caught hold of the accused persons. They were also given beatings due to which, the accused persons received injuries which resulted in causing the death of accused Wasim. On the basis of statement of Shahabudeen-father of deceased-Wasim, FIR No.17 dated 18.01.2011 was also got registered under Sections 148, 323, 302, 342, 452, 506 read with Section 149 IPC against the father of the petitioner as well as other relatives but they were acquitted of the charge by the

trial Court vide judgment dated 23.05.2014. Thereafter, the Investigating Agency filed Calendra against the petitioner vide DDR dated 20.12.2013 under Section 182 IPC in the Court of SDJM, Hathin stating therein that a false FIR was got registered by the petitioner. Subsequent whereupon, the petitioner was summoned to face trial vide order dated 08.01.2014. The petitioner in pre-summoning evidence in support of her complaint examined herself as CW1, Dr. Rekha Singh as CW2, Hukam Singh Assistant Reader as CW3 and tendered documents Ex.C2 to Ex.C55. The trial Court summoned all the accused persons for commission of offence under Sections 323, 452, 376(G), 506 IPC.

3. Learned counsel for the petitioner submits that the impugned Calendra under Section 182 IPC is liable to be quashed on the ground that the cancellation report was filed on 02.06.2012 and the Calendra was filed on 20.12.2013 whereas the private complaint was filed by the petitioner on 02.05.2012 i.e., much prior to presentation of cancellation report. The accused persons were summoned to face trial as a prima-facie case was made out against them. It cannot be said that a false complaint was lodged against the accused persons. Learned counsel for the petitioner has also relied upon judgment of this Court in case Vishal Singla v. State of Haryana and others, 2012(3) RCR (Criminal) 354 in support of his contentions wherein it has been held that once the petitioner has filed a private complaint and accused have been summoned, then it cannot be said that the information supplied by the petitioner to Police was false. Learned counsel also submits that in Vishal Singla's case (supra), the judgments rendered in Ramesh Chand v. State of Haryana, 2006(4) RCR (Criminal) 718 and Kehar Singh v. State of Punjab, Criminal Misc. No. M-7093 of 2009 decided on 25.10.2010 have also been relied upon.

4. Reply on behalf of respondents No.1 and 2-State has also been filed, which is on record.

5. Learned State counsel has not disputed the submissions made by learned counsel for the petitioner but submits that during investigation of the case, a medico-legal rukka along with MLR of the petitioner-Farzana along with pulandas was received and necessary action was required to be taken. The FIR was found to be based on false information and accordingly, Calendra under Section 182 IPC was presented against the petitioner. Learned State counsel also submits that no ground is made out to quash the Calendra as the allegations levelled in the FIR were found to be false during course of investigation.

6. Heard arguments of learned counsel for the parties and have also perused all the documents available on record including the impugned Calendra.

7. It is not disputed that in the criminal complaint filed by the petitioner, the accused persons were summoned to face trial under Section 323, 452, 376-G and 506 IPC. Now the question for consideration before this Court is whether the proceedings initiated against the petitioner under Section 182 IPC are maintainable or not.

8. Similar controversy was decided by this Court in Ramesh Chand's case and Kehar Singh's case (supra) and it was held that once the petitioner has filed a private complaint and the accused have been summoned, then it cannot be said that the information supplied by the petitioner was false.

9. In the present case also, the summoning order was passed and hence the continuation of proceedings under Section 182 IPC against the petitioner cannot be permitted. The ratio of law laid down in aforesaid judgments is also applicable to the facts and circumstances of the present case and the controversy in the present case is squarely covered by the decision passed in Vishal Singla's case (supra) wherein judgments of Ramesh Chand's case and Kehar Singh's case (supra) have been relied upon.

10. In the light of above settled position of law, the present petition is allowed and impugned Calendra under Section 182 IPC registered vide DDR dated 20.12.2013 along with all consequential proceedings is hereby quashed.

11. However, it is made clear that the observation made hereinabove would not reflect any expression on merits of the main complaint case as the same has been recorded for a limited purpose of deciding the instant controversy under Section 182 IPC.