
(2020) 10 SHI CK 0273

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 439 Of 2020

State Of Himachal Pradesh

APPELLANT

Vs

Manish Rohta

RESPONDENT

Date of Decision : 05-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 107, 150, 439(2)
Indian Penal Code, 1860 — Section 376, 506

Citation : (2020) 10 SHI CK 0273

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Sudhir Bhatnagar, Arvind Sharma, Kunal Thakur, N.S.Chandel, Vinod Gupta

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. By way of instant petition filed under Section 439(2) of the Code of Criminal Procedure, prayer has been made on behalf of the petitioner/State for cancellation of bail granted by this Court vide order dated 23.12.2019 passed in Cr.MP(M) No.2391 of 2019, in case FIR No. 238 of 2019, dated 17.12.2019 under Sections 376 and 506 of IPC, registered at police Station, Dhalli, District Shimla, H.P.

2. Pursuant to the notices issued in terms of order dated 12.3.2020, Mr. Vinod Gupta, Advocate has put in appearance on behalf of the respondent, who otherwise by way of reply to the petition has denied the allegations contained in the petition.

3. Having heard learned counsel representing the parties and perused the material available on record, this Court finds that allegedly respondent-accused Manish Rohta, who was enlarged on bail vide order dated 23.12.2019 passed by this Court in Cr.MP(M) No.2391 of 2019, not only extended threats to the

prosecutrix, rather made an attempt to persuade her to withdraw the allegations levelled by her against the petitioner. As per the complainant, respondent-accused Manish Rohta alongwith his family members approached her prior to passing of order dated 23.12.2019 and had assured that once he gets bail from the competent court of law, he shall solemnize marriage with the victim/prosecutrix, but after passing of order dated 23.12.2019, respondent-accused and his father refused to solemnize marriage and extended threats that they would spoil her life. In the aforesaid complaint, complainant has alleged that after passing of order dated 23.12.2019, it has become difficult for her to come out from her house because she is constantly stalked and trolled by the respondent-accused and his friends.

4. Though, allegations, as contained in the complaint as referred above, have been specifically denied by the respondent/accused by way of reply, but otherwise also, this Court finds that Investigating Agency immediately after having received aforesaid complaint from the prosecutrix has approached this Court for cancellation of bail without verifying the correctness and genuineness of the allegations.

5. Mr. Kunal Thakur, learned Deputy Advocate General was unable to produce record, if any, with regard to investigation, if any, conducted by the Investigating Agency qua the allegations contained in the complaint, as taken note hereinabove. He fairly states that after receipt of aforesaid complaint, Kalandra under Section 107 and 150 Cr.P.C has been submitted before the Sub Divisional Magistrate, Shimla on 2.3.2020 for further action. Otherwise also, averments contained in the petition for cancellation of bail nowhere suggests that efforts, if any, ever came to be made at the behest of the police to ascertain the veracity of the allegations levelled in the petition and as such, merely on the basis of the allegations as contained in the complaint, this Court finds no reason to cancel the bail granted by this Court in favour of the respondent/accused because while claiming aforesaid relief, it is incumbent for the petitioner-State to establish on record that respondent/accused has jumped over the condition imposed by this Court while enlarging him on bail.

6. Leaving everything aside, police after having received aforesaid complaint has already filed Kalandra under Section 107/150 Cr.P.C., before the Sub Divisional Magistrate, Shimla, which otherwise shall be decided by the competent authority on the basis of the material made available to it by the Investigating agency.

7. Consequently, in view of the above, this Court finds no merit in the present petition at this stage and accordingly same is disposed of, however, liberty is reserved to the petitioner-State to approach this Court in case allegations contained in the complaint filed by the prosecutrix are found to be correct and genuine in the investigation carried out by the Investigating Agency.