
(1998) 12 P&H CK 0069

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 23575-M of 1996

Swaran Kaur

APPELLANT

Vs

Manmohan Singh

RESPONDENT

Date of Decision : 02-12-1998

Acts Referred:

Citation : (1999) 2 AICLR 583 : (1999) 2 RCR(Criminal) 324

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

Advocate : S.S. Randhawa, B.S. Jolly, Amarjit Singh, K.K. Goel, Advocates for appearing Parties

Judgement

K.K. Srivastava, J.

1. This is a petition filed under Section 482 Cr.P.C. praying for registration of FIR on the basis of DDR No. 42 dated 11.7.1996 recorded at Police Station Kotwali, Nabha against respondents 1 to 3. The petitioner is the legally wedded wife of respondent No. 1, Manmohan Singh son of Nachhattar Singh, Auction Recorder Officer, Marketing Committee, Bhadson. It is alleged that respondent No. 1, Manmohan Singh was wanting to take divorce from the petitioner and was pressurising her to sign on some blank papers. It is alleged that respondent No. 1 held out threats to liquidate her in case she did not accede to his request. Respondent No. 2 Smt. Jagjit Kaur is the sister of respondent No. 1 while respondent No. 3, Smt. Paramjit wife of Surinder Kumar Sheda is alleged to be the concubine of respondent No. 1, Manmohan Singh. It is alleged that the petitioner was going to Gurdwara Baba Ajay Pal Singh Leherian Gate Nabha early in the morning when she was abducted by respondents 1 to 3 with the help of antisocial elements and she was detained in illegal confinement. The petitioner was maltreated by the aforesaid respondents and her signatures were obtained on blank papers. The police reached the spot and came to the rescue of the petitioner. A formal DDR was recorded at No. 42 and the petitioner was medically examined at Civil Hospital, Nabha at 9.15 A.M. on 11.7.1996. In the medical examination 8 simple injuries were found on the body of the petitioner. It is

alleged that no action was taken by the police on the said DDR and assurance was given to the Senior Superintendent of Police, Patiala for taking action in the matter but nothing was done. The petitioner has placed on record the photographs showing her hands and legs being tied and sitting on chair. A representation regarding the registration of the case was made before the Senior Superintendent of Police, Patiala and its copy has been placed on record as Annexure P1.

2. Notice of motion was issued to the respondents. Reply has been filed on behalf of the Senior Superintendent of Police, Patiala, respondent No. 4 and the Station House Officer, Police Station Kotwali Nabha, District Patiala, respondent No. 5. It is in the shape of affidavit of Gurmit Singh, PPS, Deputy Superintendent of Police, Nabha admitting about the recording of entry at No. 42 of the DDR by SubInspector Kartar Singh and about the petitioner being medically examined at Civil Hospital, Nabha at the behest of Sub Inspector Kartar Singh. It is mentioned that thereafter Sub Inspector Kartar Singh recorded DDR No. 42 dated 11.7.1996 recording about a compromise and settlement being effected between Swaran Kaur, petitioner and her husband, Manmohan Singh with the intervention of the relatives and the respectables. True translation of DDR No. 42 was placed on record as Annexure RII. The FIR was not entered as the matter has been compromised. The petitioner also filed a complaint being complaint No. 49 dated 12.4.1997 in the Court of Sub Divisional Judicial Magistrate, Nabha against respondents 1, 2 and 3 under Sections 406, 498A IPC and Sections 4 and 6 of the Dowry Prohibition Act, 1961 which is said to have been decided on 9.8.1997. A perusal of the impugned order dated 9.8.1997 passed by Sub Divisional Judicial Magistrate, Nabha which has been placed on record will go to show that the complaint case was dismissed for default. It is, thus, relevant to note that the complaint case was not dismissed or decided on merit.

3. After hearing learned Counsel for the petitioner and the learned State counsel and going through the record of the case, I find that respondents 4 and 5 have not properly considered the complaint and representation made by the petitioner. The petitioner had approached the police authorities i.e. respondent No. 5, the Station House Officer with the specific allegations regarding the occurrence in which she was allegedly abducted and tortured and DDR was entered at No. 42 but the FIR was not registered on the ground that there had been a compromise in the matter. The factum of the compromise could not have been valid ground for respondent No. 5, the Station House Officer for not registration of the FIR. Once the commission of the cognizable offence had been disclosed the Station House Officer, respondent No. 5 was under statutory duty under Section 154 Cr.P.C. to register the FIR. The allegations made in the complaint were serious in nature and the same could not have been ignored. Respondent No. 5 could not have anticipated that a settlement might be reached between the complainant and the accused.

4. In my considered opinion the ground for refusing the register FIR is not valid,

legal and adequate. Section 154(1) Cr.P.C. clearly lays down as under :

"154. Information in cognizable causes. (1) 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."

5. In view of the foregoing discussions, this petition has considerable merit and deserves to be allowed and is accordingly allowed and a direction is issued to respondent No. 5 to register FIR on the basis of the DDR No. 42 and take follow up action in the matter in accordance with law.