

(2006) 11 P&H CK 0133

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 21631-M of 2006

Manju Devi

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision: Nov. 27, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 376

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Advocate: Rupesh Kumar, for the Appellant; S.S. Chahal, AAG, Punjab, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

T.P.S. Mann, J.

The petitioner is seeking registration of an FIR against Constable Sampuran Singh and Ajaib Singh under Sections 376, 420 and 120 B IPC.

2. It has been alleged in the present petition that the petitioner is working as Dai (Maid) at Sunam, District Sangrur for the last about 15 years. She has been doing the cases of delivery and one of such case of the wife of Sibu Bihari had been done by petitioner in the month of February 2006. As per the work done by the petitioner. Sibu Bihari had to pay her Rs. 3000/- as charges towards the services rendered by her to the wife of Sibu Bihar. The petitioner had given a complaint in the concerned Police Station regarding the non-payment by Sibu Bihar. On the said complaint, Constables Ajaib Singh and Sampuran Singh came to the residence of the petitioner on 12.2.2006 and directed her to appear before them at Police Station Sunam on 13.2.2006. They also told her that they have called Sibu Bihari there. On 13.3.2006, when petitioner along with her husband went to the Police Station and met Constables Ajaib Singh and Sampuran Singh regarding her payment, they told the petitioner that one Geeta Sharma, President of the area has offered Rs. 2500/- to be paid to her (petitioner) on 14.2.2006 at 8.00 AM. They also assured the petitioner

that the balance amount of Rs.500/- would be paid to her later on by Sibu Bihari. On 14.2.2006, when the petitioner went to the Police Station, C. Ajaib Singh asked her that why she has been doing private work, he would try to get job for her in Government Hospital, Sunam. C. Ajaib Singh demanded Rs.25,000/- from the petitioner for helping her in providing government job to her. The petitioner handed over Rs. 2,500/- and also fetched Rs. 15,000/- from her home and paid the said amount to C. Ajaib Singh. Said C. Ajaib Singh again assured the petitioner that he would provide government job to her very soon. He also demanded the balance payment from the petitioner. The petitioner requested the said Constable that she could arrange for the balance amount as soon as possible and went back to her residence. On 15.2.2006, when the petitioner's husband went to his job, she was lying on the bed because of sickness. At about 11.30 A.M., C. Ajaib Singh and C. Sampuran Singh came to the residence of the petitioner and demanded the balance amount of Rs.7,500/- from her. The petitioner paid the amount of Rs.7,500/- to C. Ajaib Singh. Thereafter, C. Ajaib Singh and C. Sampuran Singh stepped out from the house of the petitioner and gossiped with each other outside the door. C. Ajaib Singh talked to someone on mobile phone and went away. However, C. Sampuran Singh re-entered the house of the petitioner and forcibly gagged her mouth with his left hand and threw her on the bed. He opened the string of her salwar with his right hand and raped her. The petitioner showed her resistance but C. Sampuran Singh being hale and hearty, overcame the same. In the meantime, husband of the petitioner reached the house, for lunch in afternoon. Upon seeing the incident, he tried to catch hold of C. Sampuran Singh, who gave 2-3 blows on his face and threw him down and gave kicks with legs before running away from the spot. The petitioner and her husband shouted and ran behind him. The people of the locality also watched the scene, however, the said Constable fled away from there. The petitioner along with her husband went to Police Station Sunam and told the entire incident to the Incharge of the Police Station, who flatly refused to even entertain the complaint of the petitioner. The Incharge of the Police Station also tried to pacify the petitioner and tried to save his Constable for the reasons best known to him. The petitioner then went to the office of Deputy Superintendent of Police and gave a complaint against C. Sampuran Singh and C. Ajaib Singh.

3. The petitioner claims that her visit to the office of DSP, Sunam did not bear any fruit. Instead she was called to the Police Station on 21.2.2006 where she was forced to affix her thumb impression on an application written by the Incharge of the Police Station. The said application was regarding request for a job to her in Civil Hospital, Mansa. When no FIR was registered, the petitioner was left with no other option but to file the present petition in this regard.

4. Reply had been filed to the petition by DSP Shamsher Singh Boparai, Sunam on behalf of the respondents, wherein he admitted that the petitioner filed a complaint against C. Sampuran Singh and C. Ajaib Singh in the office of the then DSP, Sunam, which application was marked to Jasmail Singh, the then SHO Police Station City,

Sunam on 25.2.2006, who further marked it to ASI Gurmail Singh. Said ASI Gurmail Singh tried his best to join the complainant but she was not found residing at the address mentioned by her in the complaint.

5. The reply was filed in the Court on 13.10.2006. After perusing the same, this Court found it appropriate to direct ASI Gurmail Singh to visit the residential place of the petitioner on 18.10.2006 at 11.00 A.M. for associating her with the enquiry of the case.

6. Said ASI Gurmail Singh made an effort to contact the petitioner and her husband, who were finally available to him on 27.10.2006. Statement of the petitioner was recorded and so also of her husband. ASI Jasmal Singh further claimed to have recorded the statements of a number of respectable of the area. As per their statement, no rape had been found to be committed on 15.2.2006. Finally ASI Gurmail Singh concluded from the statements of the witnesses from the locality and Municipal Councilors that neither any rape was proved to be committed upon the petitioner nor payment of Rs. 25,000/- proved to be paid by her to any police official. This enquiry report was placed on the file on 2.11.2006 and thereafter, the matter was adjourned for today.

7. I have heard the arguments addressed by counsels for the parties and perused the documents/material placed before me.

8. This is a case where the complainant has levelled specific allegations of being raped by Constables Sampuran Singh and Ajaib Singh, who are posted in Police Station Sunam. She had offered resistance to the same. Her husband, who had come to the house for lunch saw the incident and tried to catch hold of C. Sampuran Singh, who punched him on his face and threw him down. Husband of the petitioner was given kick blows by C. Sampuran Singh, who thereafter ran away from the spot. The alarm raised by the petitioner and her husband attracted a number of people from the locality as well. An attempt was made by the petitioner to lodge the report with the police, but her efforts were in futile. The reasons for the same are obvious. The petitioner was alleging that she was raped by C. Sampuran Singh. The petitioner had also levelled allegations against C. Ajaib Singh of demanding Rs. 25,000/- from her for helping her in getting government job. Said C. Ajaib Singh also accompanied C. Sampuran Singh on 15.2.2006 when they came to the house of the petitioner. The petitioner had already paid a sum of Rs. 17,500/- to C. Ajaib Singh and he had come to collect the remaining amount of Rs. 7500/- from her which was paid by her to him. There is no earthly reason as to why the petitioner or her husband should level false allegations against C. Sampuran Singh and C. Ajaib Singh. The enquiry was conducted by ASI Gurmail Singh, who concluded from the statements of the witnesses from the locality and Municipal Councilors that neither any rape was committed upon the petitioner nor amount of Rs. 25,000/- paid by her to any police official. It is apparent that an attempt has been made to hush up the matter, although serious allegations of rape and taking Rs. 25,000/- from the petitioner on

the pretext of providing her a government job were levelled.

9. In view of the above, it is a fit case where directions are required to be issued to the respondents to register an FIR under the appropriate provisions of law against C. Sampuran Singh and C. Ajaib Singh. Further, as the allegations are against two Constables of Punjab Police, it would be in the fitness of things to direct the handing over of the investigation of the said FIR after its registration to Central Bureau of Investigation.