



260-2 cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision:- 15.05.2025

(1) CRM-M-1088-2019 (O&M)

HARISH CHANDER SHARMA

....Petitioner

Vs.

STATE OF HARYANA AND ANOTHER

...Respondents

(2) CRM-M-12762-2019

AMROOP SINGH AND ANR.

....Petitioners

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Amar Vivek Aggarwal, Advocate for petitioner
in CRM-1088-2019.

Mr. Dinesh Nagar, Advocate for petitioners
in CRM-M-12762-2019.

Ms. Amrit Kaur Mahir, AAG, Punjab.

AMARJOT BHATTI, J.

1. Petitioner - Harish Chander Sharma (in CRM-M-1088-2019) and petitioners Amroop Singh and Kulwinder Kaur (in CRM-M-12762-2019) have filed two separate petitions for quashing of FIR No.49 dated 08.09.2014 under Sections 328, 342, 363-A, 370, 376 of IPC (Annexure P-1) registered at Police Station Satnampura, District Kapurthala and all

**CRM-M-1088-2019 (O&M) & ANR. -2-**

subsequent proceedings arising therefrom. Both petitions are taken up together for hearing and decision, being arisen out of the same FIR. The documents annexed with CRM-M-1088-2019 are referred for the disposal of both petitions.

2. The facts of the case are, Maksudan Sahni gave his statement to the police that he was residing in Phagwara for the last 12 years along with his wife and children. The victim was about 12 years of age. His wife was doing the work of domestic help in the houses. His daughter i.e. victim was studying in 3rd standard and used to visit the house of Kulwinder Kaur who was known to him. On 04.09.2014 at about 9:00 AM, the victim went to the house of Kulwinder Kaur. He went to her house at 2:00 PM to bring his daughter back but Kulwinder Kaur told him that she did not want to go back home. His daughter did not return till late evening. At about 8:00 PM, he again went to the house of Kulwinder Kaur to bring her daughter back but Kulwinder Kaur refused to send her. He had a talk with their neighbour and owners of the houses where his wife used to work. They went to the house of Kulwinder Kaur but even then she did not hand over his daughter to him. Rather he was told that the victim had already left the house. He suspected Kulwinder Kaur and her son Amroop Singh in the kidnapping of his daughter. Thereafter they left the house by locking the same. The matter was reported to the police. The victim was recovered and her statement was recorded under Section 164 Cr.P.C. on 16.09.2014 where she named the present petitioner. Initially the FIR was registered under Section 363-A and Sections 328, 342, 370 and 376 of IPC were added later on. During



investigation, DDR No.13 dated 10.11.2023 was recorded and offences under Sections 3 and 4 of Protection of Children from Sexual Offences Act (POCSO Act) were added.

3. Learned counsel representing petitioner Harish Chander Sharma in CRM-M-1088-2019 and petitioners Amroop Singh and Kulwinder Kaur in CRM-M-12762-2019 collectively argued both petitions. Regarding Harish Chander Sharma it is pointed out that initially petitioner Harish Chander was not named in the FIR No.49 dated 08.09.2014 (Annexure P-1). Petitioner was subsequently named when the statement of alleged victim was recorded under Section 164 Cr.P.C. on 16.09.2014 (Annexure P-4). Allegations are false. Therefore, Kulwinder Kaur one of the accused (petitioner No.2 in CRM-M-12762-2019) had filed application to DIG Jalandhar for conducting fair investigation. Thereafter, cancellation report in the aforesaid FIR was recommended qua Kulwinder Kaur and Amroop Singh. Said cancellation report recommended by S.P., Sub Division Phagwara addressed to SSP Kapurthala dated 03.01.2017 is Annexure P-2. There is another enquiry report dated 31.10.2017 of Chief Officer, P.S. Satnampura Phagwara is Annexure P-3. However, when it was presented before SSP, Kapurthala, he recommended that this case should be left on the decision of Court. Learned counsel for petitioners have also placed on record affidavit of complainant dated 22.12.2015 (Annexure P-6) and affidavit of victim 'K' dated 22.12.2015 (Annexure P-7) given in favour of accused persons named in the FIR. Without considering the aforesaid factual position, challan has been presented which is Annexure P-10. Petitioners are



falsely implicated in this case due to political reasons. Harish Chander Sharma petitioner contested election for counsellor of MC, Phagwara and due to enmity of opponents he was falsely involved in this case. During initial inquiry, cancellation report was rightly recommended. It is submitted that FIR No.49 dated 08.09.2014 (Annexure P-1) registered against petitioner Harish Chander Sharma in CRM-M-1088-2019 and petitioners Amroop Singh and Kulwinder Kaur in CRM-M-12762-2019 along with all subsequent proceedings may be quashed by accepting both petitions.

4. Petitions are opposed by learned counsel representing State. Notice was also served upon private respondents through concerned SHO but it was reported that earlier complainant along with his family was residing as a tenant of Surinder Kaur. After the occurrence, they left the accommodation in 2016 and the landlady was not aware of present address of private complainant. However, learned counsel representing State of Punjab pointed out that in the case in hand, there are specific allegations against petitioners referred above. Specific role is attributed to them. Victim involved in this case was a young girl of 12 years of age who was allegedly kidnapped on 04.09.2014 and thereafter she was recovered from Darbhanga (Bihar) and she was brought back to Phagwara on 13.09.2014 by her family and thereafter her statement was recorded under Section 164 Cr.P.C. before learned Magistrate on 16.09.2014 (Annexure P-5). Therefore, considering the gravity of offence, both petitions filed by petitioners/accused deserve dismissal.

5. I have considered the facts of the case and the documents



annexed with the petitions. As per the detailed facts, victim 'K' had gone to the house of Kulwinder Kaur (petitioner in CRM-M-12762-2019) on 04.09.2014 at about 9 am and thereafter she did not return home. Complainant went to the house of Kulwinder Kaur at 2.00 PM to bring back his daughter but Kulwinder Kaur claimed that victim did not want to return home. At about 8 pm, he again went to the house of Kulwinder Kaur who refused to send back and finally he along with neighbours and the persons living in the locality went to the house of Kulwinder Kaur who claimed that victim had already left the house. Thereafter, they locked the house and left. Later-on, victim was recovered and her statements under Section 161 Cr.P.C. and under Section 164 Cr.P.C. were recorded which are Annexure P-4 and Annexure P-5. Victim named the aforesaid petitioners specifically and also narrated the facts in detail how she was kept confined initially at Phagwara and thereafter at Ludhiana. She was boarded on a train along with Kulwinder Kaur and Amroop Singh and she was left alone at Railway Station Darbhanga by giving her some cash amount. From there she went to the house of her maternal grandparents and was brought back to Phagwara. On the basis of statement given by victim under Section 164 Cr.P.C., offence under Sections 328, 342, 370, 376 and Sections 3 and 4 of POCSO Act were added later-on.

Now petitioners are relying upon investigation reports Annexure P-2 and Annexure P-3. Fact remains that cancellation report was not approved by SSP Kapurthala and finally challan (Annexure P-10) has been presented. During the pendency of petitions, learned counsel for



CRM-M-1088-2019 (O&M) & ANR. -6-

petitioner Harish Chander Sharma has placed on record alleged affidavits of complainant as well as victim Annexures P-6 and P-7. However, genuineness and authenticity of aforesaid affidavits cannot be adjudicated at this stage. There are specific serious allegations against all the petitioners against whom challan has already been presented. Allegations detailed in challan and defence raised by petitioners are matter of trial. Therefore, I do not find any exceptional circumstance in favour of petitioners to justify their petitions seeking quashing of FIR No.49 dated 08.09.2014 under Sections 328, 342, 363-A, 370, 376 of IPC (Annexure P-1) registered at Police Station Satnampura, District Kapurthala and the challan presented against them, therefore, both the aforesaid petitions are dismissed being without merits.

6. My aforesaid observations will have no bearing on the merits of the trial.
7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.
8. Photocopy of the order be placed on the file of above-mentioned connected case.

(AMARJOT BHATTI)
JUDGE

15.05.2025

snd

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No