



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M No.44968 of 2018
Date of decision: 28.07.2025**

RAHUL**.... Petitioner**

Versus

STATE OF HARYANA AND OTHERS**.... Respondents****CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

Present : Mr. Vipul Sharma, Advocate for
Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Jagjot Singh, Advocate for respondents No.2 and 3.

KIRTI SINGH, J. (oral)

1. The present petition has been filed under Section 482 of Code of Criminal Procedure for quashing of FIR No. 414 dated 20.10.2013 under Sections 376/D, 34 of IPC and Sections 3 & 4 of POCSO Act, registered at Police Station Hathin, District Palwal including challan dated 05.05.2017 presented under Section 376-D of IPC and Section 6 of POCSO Act and all other consequential proceedings arising therefrom.

2. Shorn of details, brief facts of the case are that the aforementioned FIR lodged on the allegation levelled by the complainant that on 19.10.2013 at about 7:15 PM, his daughter had gone towards the fields, when she was dragged by the accused persons, who, after committing rape upon her, fled from the spot.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case due to mistaken identity. It is submitted that

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shortly after the registration of the FIR, the prosecutrix gave an affidavit dated 25.12.2013 (Annexure P-4) to the effect that it was Rahul son of Dattu and not the present petitioner who was involved in the commission of the alleged crime. It was thereafter, that the petitioner was found to be innocent by the investigating agency. It is stated that the complainant and the prosecutrix also turned hostile during the course of trial. A similar statement was made by the complainant. Furthermore, four of the accused persons in the instant case have been acquitted by the trial Court vide orders dated 09.11.2015 and 06.12.2017.

3. Learned counsel for respondents No.2 and 3 does not controvert the submissions made by the learned counsel for the petitioner qua the factum of the complainant and the prosecutrix having turned hostile before the learned trial Court, nor does he contest the validity of the affidavit dated 25.12.2013 of the prosecutrix.

4. In compliance of order dated 22.05.2025, State counsel has filed reply dated 17.07.2025 by way of affidavit of Deputy Superintendent of Police, Hathin. In his submissions, he reiterated the contents of the said reply, relevant portion of which reads as under:-

“That after registration of the FIR, the initial investigation was conducted by ASI Abdul Rajjak, who visited the place of occurrence and prepared rough site plan and recorded the statement of Maksudan wife of Rahmuddin, Subedin son of Rahmuddin, Bismillah daughter of Rahmuddin who supported the version of the FIR and on the same day, facts of the case were



verified by Phool Kumar the then DSP Hathin. The efforts were made by the investigation agency to apprehend and arrest the accused persons during the investigation, but the accused persons were avoiding their arrest by hiding themselves and as such Wali Mohammad son of Sh. Bashir & Jumma son of Sh. Kapoor were arrested under section 216 Cr.P.C. who were providing the help and shelter to the accused and further very hard efforts are being made by the investigation agency to apprehend/arrest the accused persons and as soon as they will be arrested and they will be produced before the Illaqa Magistrate. On 30.10.2013, statement of the prosecutrix namely Bismillah was got recorded under section 164 Cr.P.C. in which the prosecutrix in addition to all three accused namely Mustakim, Rahul, & Amir and also named Mufeed about the committing rape with the prosecutrix, but she has not given the father name of the accused in her statement under section 164 Cr.P.C. and on 28.11.2014, the petitioner was declared in proclaimed offender by the Ld. Court of S.D.J.M., Hathin and later on, the prosecutrix gave an affidavit in which she has given the name of the accused No. 1. Mustakim son of Rahman 2. Amir son of Bashir 3. Mufeed son of Jumma & 4. Rahul son of Idrish, but in the very next Para of the affidavit the prosecutrix stated that Rahul son of Dallu was the main accused, but by mistaken she got written the name of Rahul son of Idrish. As she has stated that at the time of occurrence, she was not

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aware of the name of the father of Rahul and the rape upon the prosecutrix was committed by Rahul son of Dallu and not by Rahul son of Idrish and on the basis of the affidavit, the then SHO Inspector Mahipal found the petitioner namely Rahul son of Idrish innocent vide his case diary No. 48 dated 30.11.2014 while Rahul son of Dallu was found to involve in the commission of the crime. But the then DSP Hathin vide his case diary No. 54 dated 31.01.2015, found Rahul son of Dallu as innocent on the basis of the inquiry conducted by interrogating of 47 respectable persons of the Village Mamolaka. The accused Wali Mohammad & Jumma have been acquitted in this case on 09.11.2015 by the Ld. Court of S.D.J.M., Hathin and later on, during the course of the investigation, the accused Mustakim and Amir were arrested and Challan was filed on 05.05.2017 and during the trial of the case both the accused have been acquitted by the special Ld. Court of ASJ, Palwal vide judgment dated 06.12.2017 as the PW-1 Victim and PW-2 complainant have not supported the version of the prosecution case and they have been declared hostile. The copy of statement u/s 164 of Cr.P.C. of victim is attached herewith as annexure P-3.”

5. This Court vide order dated 22.05.2025, had directed the prosecutrix to record her statement before the concerned Illaqa Magistrate and the concerned Illaqa Magistrate was also directed to submit the same before this Court. In compliance to the same, report dated 10.06.2025 along with the

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statement of the prosecutrix was forwarded by the concerned Court, a perusal whereof reveals that the prosecutrix stated to have wrongly named the present petitioner in place of Rahul son of Dallu, and that the present FIR thus be quashed against Rahul son of Idrish.

6 The prosecutrix has unequivocally stated in her affidavit dated 25.12.2013 and also in her statement recorded before the learned trial Court that the present petitioner was named as an accused due to a case of mistaken identity. It was on this basis that the petitioner was even declared innocent by the investigating agency.

7. In view of the aforesaid, this petition is allowed and the FIR No. 414 dated 20.10.2013 under Sections 376/D, 34 of IPC and Sections 3 & 4 of POCSO Act, registered at Police Station Hathin, District Palwal including challan dated 05.05.2017 presented under Section 376-D of IPC and Section 6 of POCSO Act and all other consequential proceedings arising therefrom, are quashed qua the present petitioner only.

8. Pending application, if any, also stands disposed of.

28.07.2025

Jyoti-IV

(KIRTI SINGH)**JUDGE**

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