

Court No. - 32

Case :- WRIT - C No. - 15531 of 2020

Petitioner :- Raj Kumari

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Anil Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Shashi Kant Gupta,J.

Hon'ble Pankaj Bhatia,J.

The present petition has been filed, inter alia, for the following relief:-

"(a) Issue a writ, order or direction in the nature of mandamus directing the respondents authority to take appropriate action on the application of the petitioner/applicant within stipulated time."

On 15.10.2020, following orders were passed by this Court:-

"Heard learned counsel for the parties."

The present petition highlights the laxity shown by the officers in triggering the criminal justice system. The present petitioner alleges that on 11.7.2020 she was raped by four persons and she tried to lodge the First Information Report (in short 'FIR') but the FIR was not lodged. On 22.7.2020, the petitioner claims to have submitted an application before the respondent no.2, Senior Superintendent of Police, Prayagraj highlighting that despite her best efforts, the FIR was not being registered. Once again the petitioner claims to have filed an application on 23.7.2020 informing the respondent no. 2 that despite best efforts the FIR was not being lodged. Ultimately, the petitioner has approached this Court by filing an application on 30.7.2020 stating that FIR is not being lodged.

This Court, vide order dated 12.10.2020, had called for instructions from the Standing Counsel. The Standing Counsel has produced the instructions dated 14.10.2020 wherein it has been admitted that a complaint dated 23.7.2020 was indeed forwarded by the petitioner before the respondent no. 2. It is further stated in the instructions that the said report was

forwarded by the respondent no. 2 to the Police Station, Phoolpur for further action.

In pursuance of the said directions, an FIR claims to have been registered on 13.10.2020 in Case Crime No. 461 of 2020 under sections 376-D, 392, 328, 504, 506 IPC, Police Station Phoolpur, District Prayagraj. It is also brought on record that the statement of the petitioner has been recorded under section 161 Cr.P.C. on 14.10.2020 and the statement under section 164 Cr.P.C. shall be recorded soon. In the instructions the medico legal examination report of sexual violence was furnished, and in the said report, the medical examination of the prosecutrix is said to have been done on 14.10.2020.

The sequence of the evidence, as recorded above, on the basis of instructions, received highlights the sheer callousness of the police authorities in lodging the FIR after about three months of the alleged incident that to only after this Court had intervened and had called for instructions. It is well settled that the information disclosing a cognizable offence should be initiated with all expedition, the same is also necessary so as to bring the prosecution to its logical conclusion fairly whereas, in the present case, laxity, which has been done at the behest of the police authorities, has not been explained at all. There is no explanation as to why three months was taken for lodging the FIR and for proceeding in accordance with the complaint made by the petitioner for such a long time there is nothing on record as to what action was taken by the Senior Superintendent of Police except merely forwarding the application of the petitioner before the Station House Officer, Police Station Phoolpur, District Prayagraj.

On a prima facie consideration, this Court is of the view that on account of the laxity of the police officials, the prosecution may be seriously affected, the action taken by the respondent no. 3 in the form of lodging of the FIR on 13.10.2020 and the subsequent medico legal examination of the petitioner on 14.10.2020, are prima facie a hogwash.

Considering the facts, which prima facie disclose the laxity on the part of the police authorities, this Court is of the view that the matter needs to be taken seriously. Needless to add that time and again the courts have emphasized about lodging of the FIR and conducting the medico legal examination with all expedition.

The respondent authorities, prima facie, have failed to take action as was expected of them, this Court is of the view that the liability for the lapses which are prima facie evident, should be fixed as such the the Senior Superintendent of Police,

Prayagraj (respondent no. 2) and Station House Officer, Police Station Phoolpur, District Prayagraj (respondent no. 3) are directed to appear personally before this Court on 20.10.2020 on which date the Court proposes to pass further orders keeping in view the glaring facts, which have come to the knowledge of the Court.

Put up this case for further orders on 20.10.2020 as fresh.

The Standing Counsel shall inform the respondents no. 2 and 3 about this order."

In pursuance to the order dated 15.10.2020, today personal affidavits have been filed by Shri Sarvashresth Tripathi, posted as Deputy Inspector General of Police/Senior Superintendent of Police, Prayagraj and Shri Rakesh Chaurasia, posted as Station House Officer, Tharwai/Phoolpur, Prayagraj. The affidavits are taken on record.

Today, a personal affidavit has also been filed by Smt. Kunti, mother of the girl (victim), wherein she has stated that the girl in question (victim) has been detained in the police station by the police authorities since 16.10.2020. It is further stated that the police is not permitting the family members of the petitioner to meet the girl (victim).

Shri Manish Goyal, learned Additional Advocate General assisted by Ms. Akanksha Sharma, learned Standing Counsel has sought 24 hours' time to file a reply to the affidavit filed by Smt. Kunti, mother of the girl (victim).

The police is directed to produce the girl by tomorrow i.e. 21.10.2020 before this Court.

Put up this case as a fresh case tomorrow i.e. 21.10.2020 at 10:00 A.M.

The Senior Superintendent of Police, Prayagraj (respondent no. 2), the present Station House Officer, Police Station Phoolpur, District Prayagraj (respondent no. 3) and Shri Brijesh Kumar, the erstwhile Station House Officer, Police Station Phoolpur, District Prayagraj, who has been suspended, are directed to appear before this Court tomorrow i.e. 21.10.2020 at 10:00 A.M.

Learned counsel for the petitioner is also directed to produce the parent of the girl (victim).

Order Date :- 20.10.2020

SR