

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Qazi Faez Isa  
Mr. Justice Sardar Tariq Masood

**CRIMINAL PETITION NO. 1420-L OF 2019**

*(On appeal against the order dated 21.10.2019 passed by Lahore High Court, Lahore in Crl. Misc. No. 42805/B/2019)*

*Babar* ... *Petitioner*

**Versus**

*The State* ... *Respondent*

For the petitioner:	Mr. Badar Munir Malik, ASC Mr. Arshad Ali Chaudhary, AOR a/w. petitioner
For the state:	Mirza Abid Majeed, D.P.G., Pb. Waseem Dar, S.P., Saddar, Gujranwala Syed Zahid Hussain, S.H.O. Aiman Abad, Gujranwala Syed Zahid Hussain, S.I./I.O. Mohsin Shah, A.S.I. Shabana, Lady Constable Hina, Lady Constable Sobia, Lady Constable
For the complainant:	Mr. Aftab Alvi Alam Yasir, ASC
On Court's notice:	Mst. Makea Nawaz, Abductee, in-person
Date of Hearing:	11.02.2020.

**ORDER**

**Qazi Faez Isa, J.** Pursuant to the last order, Mst. Makia Nawaz is present. In her statement under section 164 of the Code of Criminal Procedure ("**the Code**"), which primarily is the basis of the case against the petitioner, she only mentions Ghulam Mustafa by name. Earlier there was litigation between Ghulam Mustafa and Mst. Makia Nawaz therefore it cannot be ruled out at this juncture that there may be *mala fide* to the extent of involving his brother. The allegation against the petitioner is that he had associated himself with Ghulam Mustafa however further information in this regard has yet not been collected by the prosecution thereby making it a case of further inquiry. Under the circumstances the *ad interim* pre-arrest bail granted earlier *vide* order dated 2<sup>nd</sup> January 2020 is confirmed. The bail bond and surety submitted in terms of the said order should be transferred to the Trial

Court and should be deemed to have been submitted to the Trial Court. However, the petitioner is directed to join the investigation whenever called upon to do so by the prosecution. Needless to state that any observation made herein is tentative in nature and will not prejudice the case of either party. The petition is converted into an appeal and the same is allowed in the said terms.

2. On 28<sup>th</sup> January 2020 we had expressed our surprise that the investigation in the case was handed over to a male police officer in view of the sensitivity of the matter and had inquired from the Senior Superintendent of Police (Investigation) to explain why this was done. Mr. Waseem Dar, Superintendent of Police ("SP"), is present and Criminal Miscellaneous Application No. 195 of 2020 has been submitted by the State wherein a document titled, "*Standard Operating Procedure (SOP) for Investigation of Rape Cases*" dated 20<sup>th</sup> August 2013 ("**SOP**") is also attached. The SOP was issued by the Investigation Branch Punjab, Lahore to the following:

- i) All Regional Police Officer, in Punjab
- ii) Capital City Police Officer, Lahore
- iii) All City Police Officer, in Punjab
- iv) All District Police Officer, in Punjab
- v) All District Heads of Investigation in Punjab

Clause 2 (iii) of the SOP states as under:

*"Investigation of the female Rape case shall be conducted preferably by a woman police officer (not less than ASI/SI). In case, sufficient number of such I.Os are not available in a police station, the CPO/DPO of the district shall depute such an officer from elsewhere."*

Clause 3 of the said SOP which is also relevant is reproduced hereunder:

*"i. The victim should be handled with utmost sympathy and sensitivity. The behavior towards women victim should be courteous. No embarrassing or indecent questions should be put to her as she is already under shock/trauma."*

*ii. While talking to the victim, her psychology should be observed carefully and eliciting of information should be done in such a manner that she remains cool and calm. Proper account of the incident should be recorded in plain and simple language as early as possible in the informant's own words. If the complainant while making oral report suspects or alleges against a particular person, the ground on which suspicion is based be ascertained tactfully."*

*iii. The lady investigation officers should be very cautious while talking to the victim. DCO of the district would be requested to arrange help of female psychologist/psychiatrist as she can be of immense help in bringing out the victim from trauma and preparing her to cooperate with the investigation agency."*

iv. *The victim as well as the accused person (s) should be sent for medical examination after preparing the injury sheet by the I.O. Details of injuries/scratches, bruises and nail marks, if any, on their body should be clearly mentioned in the injury sheet.*

v. *A rape victim above 18 years of age can only be examined after her written consent and a rape victim under 18 years of age can be examined only after a written consent from her parents/guardians.*

vi. *The victim should be medically examined only by a lady doctor.*

vii. *The victim should not be called at the Police Station, I.O. should visit to the victim's house for ascertaining facts in the presence of her relatives/family members.*

viii. *Efforts should be made to get the statement of victim recorded u/s 164 Cr.P.C. at the earliest. (2013 SCMR 203)"*

The SP states that the SOP was violated by the Investigation Officer therefore he has issued a show cause notice to both the Investigation Officer and the then concerned S.H.O. of the police station. We inquired from the learned Deputy Prosecutor General, Punjab ("**DPG**") whether the Investigation Officer could have disregarded the order of a superior officer and he states that he could not have and under such circumstances a show cause notice should not have been issued to the Investigation Officer, but it could have been issued to the S.H.O. who had assigned him the investigation. The SP concurs with the legal advice of the learned DPG and states he shall withdraw the show cause notice issued to the Investigation Officer. He further states that he will ensure that fresh advice is issued to the police stations under his jurisdiction to abide by the SOP.

3. We are surprised why the SOP is not being abided by. The learned DPG on behalf of the province states that he will direct the Additional Inspector General of Police (Investigations) to ensure that it is and fresh copies will be sent to all the police stations in the province together with its Urdu translation so that all concerned are aware of the SOP and abide by it. We therefore direct the Additional Inspector General of Police (Investigations) to do as stated by the learned DPG.

Judge

Judge