

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

CRM-M 16091 of 2013

Date of decision : 29.04.2015

Raj Kishore & ors.

....Petitioners

V/s

Kanchan Devi

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Deepender Singh, Advocate for the petitioners.

Mr. Amit Choudhary, Advocate for the respondent.

RAJAN GUPTA J.

Petitioners have impugned the order passed by Additional Sessions Judge, Faridabad whereby he accepted the revision petition filed by respondent and remanded the case to trial court for reconsideration and passing a fresh order.

Learned counsel for the petitioners has impugned the order on the ground that no notice was issued to him before order passed by Judicial Magistrate Ist Class, Faridabad was set-aside. He has referred to zimini orders passed from time to time to show that at no stage the court had issued any notice to the petitioners.

This fact is admitted by learned counsel representing the respondent.

I have heard learned counsel for the parties.

Complaint was filed by respondent alleging that on 05.09.2011 at about 7.00 a.m. when she was busy in doing household work and her husband was sitting in the grocery shop which is in one of the room of complainant's house. At that time,

she and her husband were assaulted by the accused. An effort was made to outrage the modesty of the complainant as her gown was pulled down and an attempt to rape her was also made. In the meantime, son of the complainant came there and raised an alarm. On hearing his hue and cry, neighbours came there and saved the situation. Complainant led preliminary evidence before the trial court. However, it came to the conclusion that prima facie case for summoning the accused was not made out. It, thus, dismissed the complainant. Respondent preferred a revision petition before the Additional Sessions Judge, Faridabad. Same was allowed on 13.03.2013 without issuance of notice to the respondents. In my considered view, impugned order is unsustainable. Admittedly, no notice was issued to the respondents despite the fact that case remained pending before revisional court for three months.

Under the circumstances, impugned orders, Annexures P3 & P4 are hereby set-aside. Matter is remitted to the court of Additional Sessions Judge, Faridabad for consideration afresh after hearing the parties.

Disposed of.

April 29, 2015

Ajay

(RAJAN GUPTA)
JUDGE