

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

**CRM-M No.24510 of 2015**

Date of decision: 29<sup>th</sup> September, 2015

Anant Prakash Sinha @ Anant Sinha

... Petitioner

Versus

State of Haryana and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Ms. Vandana Malhotra, Advocate for the petitioner.

**FATEH DEEP SINGH, J.**

A criminal case by way of FIR No.376 dated 23.11.2013 under Sections 498A/323/34 IPC was registered at Police Station Sector 40, Gurgaon by the wife Kanupriya Sinha @ Priyadarshini complainant against her husband petitioner Anant Prakash Sinha @ Anant Sinha on the allegations in brief that they were married since more than 13/14 years and out of which the couple had two sons who both are minors. Alleging that the husband was bent upon getting a mutual divorce and on her resistance had physically assaulted her and even took the refuge of the allegations that her husband was denying

her the basic facilities of life by refusing to give her money. After investigations, challan against the husband was presented. The trial Court of learned Judicial Magistrate 1<sup>st</sup> Class, Gurgaon vide orders dated 04.04.2014 framed charges against Anant Sinha for commission of offences under Sections 498A and 323 IPC.

It is during the course of this trial, an application dated 31.07.2014 was moved by the complainant for framing of additional charge under Section 406 IPC. The trial Court through orders dated 31.01.2015 allowed the application and ordered framing of this charge against the accused husband namely Anant Sinha who was facing trial as well as his mother Renuka Sinha who was not an accused before the Court.

Upon revision by the husband, through the impugned orders dated 18.05.2015 the Court of learned Additional Sessions Judge, Gurgaon partly allowed the application holding framing of additional charge under Section 406 IPC against the husband but dismissed the findings qua his mother Renuka Sinha. The same is subject matter of challenge before this Court in this petition under Section 482 Cr.P.C.

Heard Ms. Vandana Malhotra, Advocate representing the petitioner and perused the records.

Though with much fanfare, learned counsel for the petitioner has sought to harbour around the contentions that the complainant herein is represented by a private counsel instead of

State, arguing that the same is not permissible, for which reliance has been placed on '**Shiv Kumar v. Hukam Chand**' 1999 LawSuit(SC) 898. It needs to be adverted here that the trial Court report reflects that the State has been duly represented by the learned State counsel and it is a different matter that the private counsel has assisted the learned State counsel and does not have any bearing on the outcome of the impugned findings and this argument is highly fallacious and untenable.

The next point asserted by the counsel is that without recording evidence after first charge the Court has amended the charge certainly is too restricted meaning and interpretation assigned to the provisions of Section 216 Cr.P.C. by the learned counsel for the petitioner. Under these statutory provisions unbridled powers vests in the Court which may alter or add to any charge at any time before the judgment is pronounced.

Though much reliance is sought to be placed by the learned counsel on '**CBI v. Karimullah Osan Khan**' 2014(11) SCC 538 and '**Hasanbhai Valibhai Qureshi v. State of Gujarat and others**' 2004(2) RCR (Criminal) 463, however the common law point that arises out of these ratios is that the Courts can exercise power of addition or modification of charges under Section 216 Cr.P.C. on the basis of material before the Court. At the same time, it needs to be kept in mind that the trial Court through a detailed order (Annexure P1) has spelled out reasons what has necessitated the same and thus,

learned counsel could not highlight what prejudice has been caused to the petitioner by this process of law so legitimately undertaken in the impugned order. This Court seeks support from **2013(7) SCC 256** titled as '**Jasvinder Saini and others v. State (Govt. of NCT Delhi)**'.

Thus, in the light of what has been discussed above, there is no worth in the present petition which is wholly merit-less and thus, stands dismissed in limine. Records be sent back.

**(FATEH DEEP SINGH)**  
**JUDGE**

**September 29, 2015**  
*rps*