

129

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-38060 of 2015

Date of decision: November 05, 2015

Pooja

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Daman Jeet, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the orders dated 14.08.2015 (Annexure P-7) and 16.10.2015 (Annexure P-8).

Learned counsel for the petitioner has submitted that the Courts below have erred in dismissing the application moved by the petitioner under Section 190 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short). Learned counsel has further submitted that the petitioner had filed a petition before this Court under Section 482 Cr. P.C. seeking a direction to official respondents to carry out investigation on the basis of DDR No.15 dated 11.08.2010, which was part of FIR No.205 dated 19.03.2010 at Police Station Kotwali Bathinda against private respondents for offence punishable under Sections 498-A, 406 of Indian Penal Code, 1860 ('IPC' for short) and Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. The said petition was dismissed vide order Annexure P-5. However, it was mentioned in the order that in case, the

petitioner was not satisfied with the investigation, then she could raise her grievance before the Area Magistrate at the time when he took cognizance of the charge-sheet for further investigation or she could approach the trial Court for taking action under Section 190 Cr. P.C. against the accused who had not been challenged or she could avail remedy in terms of Section 319 Cr. P.C.

In the present case, petitioner had lodged FIR No.205 dated 19.03.2010, under Sections 498A IPC at police Station Kotwali Bathinda. After completion of investigation and necessary formalities, challan was presented against accused Varup Kapoor.

Petitioner had approached this Court by way of CrI. Misc. No.10960 of 2011 for direction to the official respondents to investigate the case. While dismissing the said petition vide order dated 28.08.2012 (Annexure P-5), this Court had made the following observations:-

“After thorough investigation, the police had already submitted the charge sheet against respondent No. 4 only for the offence punishable under Section 498A, IPC. In case the petitioner was not satisfied with the investigation then in that eventuality either she could make her grievance before the learned Area Judicial Magistrate at the time when he took cognizance of the charge sheet for referring the matter to the investigating agency for further investigation or she could pray the learned Trial Court for taking cognizance in terms of Section 190, Cr.P.C., against the left over accused on the basis of the material available on record. If the petitioner is able to show to the Court from the fresh material during the course of prosecution evidence then she has the remedy in terms of Section 319, Cr.P.C.”

Thereafter, petitioner moved an application before the trial Court under Section 190 Cr. P.C. The learned trial Court rightly dismissed the said application moved by the petitioner as charges had already been framed against accused vide order dated 03.11.2011. Thus, the Magistrate had already taken cognizance of the matter and had framed charges against the accused who had been challenged. Therefore, the application moved by the petitioner under Section 190 Cr. P.C. was liable to be dismissed.

A perusal of the order dated 28.08.2012 passed by this Court reveals that at the time of passing of the said order, the fact that charges had already been framed against the accused qua whom challan had been presented in the Court, was not brought to the notice of the Court. The learned Court of revision had also rightly dismissed the revision petition vide order dated 16.10.2015 (Annexure P-8) filed by the petitioner against the order dated 14.08.2015 (Annexure P-7) as the application under Section 190 Cr. P.C. was not maintainable.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

November 05, 2015
mahavir