

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

CRM-M-7439-2015

Date of decision: 9.3.2015

Jyoti

...Petitioner

Versus

Anamika and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Suman Jain, Advocate for the petitioner

SNEH PRASHAR, J.

1. By filing the present petition under Section 482 of the Code of Criminal Procedure, the petitioner has sought quashing of orders dated 7.1.2013 and 3.11.2014, passed by the learned Chief Judicial Magistrate, Hisar and learned Sessions Judge, Hisar respectively, declining to summon the respondent in a protest petition/ criminal complaint filed by her for commission of offence punishable under Sections 323, 452, 34, 504, 506, 354 of the Indian Penal Code (for short 'the Code').

2. Precisely, the relevant facts are that brother of petitioner Jyoti namely Parveen was married with Anamika respondent No.1 as per Hindu rites and ceremonies. The allegation of the petitioner was that respondent No.1 was a quarrelsome lady, who after

marriage started refusing to perform domestic work and of and on gave threatening to commit suicide. During her stay of about 20 days in the matrimonial home, respondents No. 2 to 8 used to come to their house and used to take away cash and valuable articles secretly. She also threatened to implicate her and other family members in a false case of demand of dowry and to get her terminated from job.

The petitioner further alleged that on 29.6.2011, respondents No. 2 to 8 entered her house forcibly by hatching a conspiracy. At that time she and her sister-in-law (respondent No.1) were alone at home. They all gave beatings to her and respondents No. 5 to 7 insulted her and outraged her modesty. They also snatched her gold chain and an ear ring etc. Hearing her shouts 3-4 males and 2-3 females including Sanjay Chauhan, Baby Chauhan, Ved Rana, Naveen Rana etc. entered the house and saved her from the clutches of the assailants. She reported the matter to the police, whereupon FIR No. 700 dated 17.8.2011 under Sections 147, 148, 509, 323, 356, 452, 506 of the Code was registered at Police Station City Hisar.

The police did not investigate the matter properly and did not take any action against the respondents. As such, she was constrained to file a protest petition/ complaint.

3. The petitioner led preliminary evidence and appreciating

the material on file, the learned Chief Judicial Magistrate, Hisar dismissed the application/ protest petition vide order dated 7.1.2013.

Feeling aggrieved, the petitioner filed a revision petition, which was also dismissed by the learned Sessions Judge, Hisar vide judgement dated 3.11.2014.

Aggrieved by the same, the petitioner has filed the instant petition invoking the provisions of Section 482 of the Cr.P.C.

4. The submissions made by Mr.Suman Jain, counsel for the petitioner have been heard.

5. To begin with, learned counsel for the petitioner argued that there were serious allegations against the respondents. The petitioner was molested with an intention to outrage her modesty by respondents No.5 and 7. Besides herself appearing in the witness box as PW2, the petitioner examined Ved Parkash PW1 and Sanjay Chauhan as PW3, who both supported her version. However, while dismissing her protest petition/ complaint and also her revision petition, no reason was assigned by the learned trial court or by the learned Sessions Judge for rejecting the statements of the said witnesses. The petitioner without any delay had reported the incident to the police, on which a case was registered, but subsequently because of political influence of the respondents, the police filed a cancellation report. Resisting the said report, the

petitioner filed a protest petition and produced the required evidence. As such in the facts and circumstances of the case, there was no ground to dismiss the complaint/ protest petition at the initial stage.

6. Admittedly, a marital dispute was going on between brother of the petitioner and his wife Anamika respondent No.1. With the said facts in the backdrop, the story presented by the petitioner does not appear to be plausible. As is reflected in the order dated 3.11.2014 of the learned Sessions Judge, a complaint was given by Anamika against her in-laws i.e. family members of the petitioner, on the basis of which, FIR No. 118 dated 20.8.2011 was registered against them. The incident reported by the petitioner was inquired into by the Deputy Superintendent of Police, Hisar, who finding the complaint to be false mentioned in his report that the petitioner in order to pressurise Anamika respondent No.1 and her family members to compromise, had given a false complaint and got registered FIR No.118 dated 20.8.2011.

Otherwise also, according to the petitioner as many as 8 persons physically assaulted her and two out of them molested her to outrage her modesty. The incident was stated to have taken place on 29.6.2011, whereas she lodged report about the same on 19.7.2011, on the basis of which FIR No.118 dated 20.8.2011 was registered. The matter was reported to the police after about 20 days

of the incident. The way she described the incident would indicate that she must have suffered severe injuries, but admittedly she never went for her medico legal examination or atleast for some treatment. As far as the witnesses examined by her are concerned, they appear to be procured witnesses. Certified copies of their statements were annexed with the petition. Perusal of the statement reveals that PW1 Ved Parkash deposed that he and Parveen used to go for walk daily. On that day, after his brother left him outside the house of Parveen, hearing the shouts he went inside and saw two men and 3-4 ladies beating the petitioner with slaps, kicks and fist blows. He also deposed that one blind man and an old lady were standing and instigating others to assault. Since he was a close friend of Parveen it can be assumed that he knew wife of Parveen namely Anamika-respondent No.1. The petitioner stated that he and Anamika were alone at that time, but PW1 Ved Parkash did not speak out a word about presence of Anamika in the house. He also did not state why Parveen was not present in the house when he had come to accompany him for a walk.

7. Likewise, PW3 Sanjay Chauhan stated that when he entered the house of the petitioner he saw some men and ladies calling bad names to the petitioner. At that juncture, he did not say that the men and women present were beating the petitioner. It is later in his statement that he stated that those people had given

beatings to the petitioner. In that manner, neither the statement of the witnesses were consistent nor they were appeared to be trustworthy.

8. Such an order cannot be passed in routine. Summoning of an accused in a criminal case is a serious matter. The order must reflect that the Magistrate had applied his judicial mind before passing the same. In the instant case a detailed order was passed by the learned trial Court as well as by the learned Sessions Judge. Counsel for the petitioner could not demonstrate any illegality or perversity in the impugned orders dated 7.1.2013 and 3.11.2014. Thus, finding no ground for intervention, the present petition is dismissed being bereft of merit.

9.3.2015
gsv

(SNEH PRASHAR)
JUDGE