

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

CRR 657 of 2015

Date of Decision: February 25, 2015

Poonam and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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**Present:- Mr.Arun Singal, Advocate
for the petitioners.**

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M.M.S. BEDI, J. (ORAL)

Petitioners are ladies who are facing trial on the charge that they have hatched a conspiracy alongwith other co-accused and had sent Shalu and Nazis to the factory of Partap Singh son of Sunhera for persuading him to indulge in illegal sexual activity with them with an objective to extract money from him by involving him in a false case of rape in connivance with SI Partap Singh. Petitioners alongwith SI Partap Singh are facing trial for offence of extortion by making an attempt to involve complainant Partap Singh in a case of rape. SI Partap Singh is also facing trial for having committed offence under Prevention of Corruption Act and

conspiring with others for indulging in various provisions of Immoral Traffic Act.

Counsel for the petitioners has submitted that the application for discharge filed by Partap Singh, complainant was dismissed by the trial Court as well as by High Court but on the basis of the observations made by the High Court that prima facie the involvement of Partap Singh son of Sunhera was malafide, the said application has been allowed by the Apex Court. Counsel for the petitioner has also argued that SI Partap Singh, an accused had challenged charge No.7 that he alongwith petitioner-ladies had entered into a conspiracy and sent Shalu and Nazis to the factory of Partap Singh (complainant) and that complainant Partap Singh has committed gang rape upon Shalu and Nazis punishable under Section 376 (2) (g) IPC. The 7th charge for conspiracy has been quashed by this Court in CRR No. 3133 of 2013, vide annexure P-4 by a Coordinate Bench of this Court.

The petitioners had moved an application under Section 216 Cr.P.C. for alteration of charges on the basis of the order passed by the Apex Court in favour of Partap Singh, complainant, and on the basis of quashing of charge No.7 qua accused SI Partap Singh.

I have heard learned counsel for the petitioners. Section 216 Cr.P.C. enables a Court to amend charges at any stage on the basis of the material brought to the notice of the Court. In the present case, no evidence has been produced before the trial Court after framing of charges. The application under Section 216 Cr.P.C. prima facie is thus not maintainable.

Counsel for the petitioners has vehemently urged that the case of the petitioners ladies is at par with SI Partap Singh, so far as charge No.7 is concerned.

I have considered the facts and circumstances of the case. The petitioners are accused of having entered into conspiracy with SI Partap Singh for having sent two girls to complainant Partap Singh against whom the charges under Section 376 Cr.P.C. have been quashed on the ground that he himself was a complainant. I have also considered the facts and circumstances in application under Section 216 Cr.P.C. It will be premature to grant parity to the petitioners with SI Partap Singh so far as charge No.7 is concerned.

Counsel for the petitioners has submitted that once complainant Partap Singh has been discharged of the charge under Section 376 IPC with the present petitioners, the petitioners should also be discharged.

I have considered the said argument and I am of the opinion that petitioners had allegedly entered into conspiracy with SI Partap Singh and sent Shalu and Nazis to the complainant Partap Singh with an objective to extract money from him by involving him in a case under Section 376 IPC. The Apex Court has discharged complainant Partap Singh, he being a complainant at whose instance the machinery of prosecution was set into motion against SI Partap Singh.

With the assistance of counsel for the petitioners, I have gone through the charge sheet. The petitioners having actively participated and

made an attempt to involve complainant Partap Singh in a case of rape, they cannot claim parity with the complainant or SI Partap Singh. No ground is made out at this stage to allow their application under Section 216 Cr.P.C. for alteration of charges or to set aside the order dated January 29, 2015 passed by Additional Sessions Judge, Panipat.

Dismissed.

February 25, 2015
sanjay

(M.M.S.BEDI)
JUDGE