

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-3440 of 2014
Date of Decision: 20.12.2016**

Devi Ram and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Surinder Gaur, Advocate
for the petitioners.

Mr. Vikas Chopra, DAG, Haryana.

Mr. Ashwani Kumar, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J(ORAL)

Petitioners are seeking quashing of the order dated 12.7.2011 vide which charge had been framed against them as well as the order dated 24.12.2013 passed by the Sessions Judge vide which the revision filed by the petitioners was dismissed.

It is necessary to refer to the essential facts as they appear from the record.

Petitioner No. 1 was married to respondent No. 2 in 2003. A child was born to them in 2004. Respondent No. 2 gave a complaint to the police on 24.7.2005 relating to demand of dowry and cruelty against petitioner No. 1 and his family members upon which FIR No. 13 dated 3.9.2005 was registered under Section 498-A, 406, 506, 34 IPC. Challan

and the trial ended in acquittal. Admittedly, respondent No. 2 started living with petitioner No. 1 for about three years. She was thrown out of the house after being beaten up. She was medically examined and approached the police but they did not lodge a report. She filed another complaint but still no case was registered. The complainant then approached the Court and the complaint was forwarded to the police upon which the FIR was registered. Petitioner No. 1 filed an application in July 2011 challenging the territorial jurisdiction of the Courts at Sonapat which was dismissed and charge was framed on 12.7.2011. Copy of that application had not been placed on file. Annexure P-12 shows that the prayer made by the accused was that the Court at Sonapat had no jurisdiction and the allegations of criminal misappropriation and breach of trust could only be enquired into by the Court where the property was received or retained which was at Rohtak.

The petitioners approached the High Court and filed CRM-M-30090 of 2011 which came up for hearing on 3.10.2011. The petition was withdrawn by the petitioners and liberty was sought to challenge the order of framing of charge before the Court below. The petitioners filed a criminal revision before the Sessions Judge which was dismissed on 24.12.2013 vide Annexure P-14. Even there the ground raised was regarding the territorial jurisdiction. It noted that the complainant was beaten up on 20.2.2008 and she was turned out of the home in three clothes and left on the outskirts of Sonapat and a demand of Rs. 1.00 lac had been made and there were grounds to frame the charge. The revision was dismissed. It also dealt with the issue of territorial jurisdiction.

The petitioners have challenged the order on the plea that the second FIR could not be registered as it amounted to double jeopardy as the

first trial ended in acquittal and petitioner No. 2 had been found to be innocent and the second FIR could not be registered and therefore it should be quashed.

Both the respondents had filed their reply and it was pleaded that the trial had ended in acquittal as there was a compromise and the petitioner had agreed to mend his ways but he failed to do so and inflicted injuries which were noted by the medical officer. It had also noted that the marriage was solemnized at Sonapat and the dowry articles were given at Sonapat which had not been returned. The complainant along with the reply had placed the copy of the MLR (Annexure R-1) which notices six injuries.

Counsel for the petitioners had urged that first trial containing same allegations had ended in acquittal and the petitioners could not be tried for the same offences for the second time. It was urged that petitioner No. 1 had filed a petition for divorce and *ex parte* divorce was granted and no application for setting aside the *ex parte* decree had been moved.

The submission on behalf of respondent No. 2 is that the trial had completed and all the witnesses had been examined and since there was a stay regarding passing of the final order only arguments remain to be heard. It was urged that the compromise was effected and petitioner No. 1 alone had faced the trial and petitioner No. 2 was not an accused in the first case and the complainant had lived with her husband for almost three years and the allegations are subsequent in point of time which have to be examined. The counsel had referred to copy of the MLR (Annexure R-1) and the complaint.

A perusal of the documents as well as the orders placed on record show that no plea had been raised before any Court below regarding

double jeopardy. The trial has completed. All the witnesses of the prosecution have been examined and only arguments are to be led. The allegations are that the complainant had been turned out of the house on 20.2.2008 and she had received injuries. She was examined by a medical officer. These are fresh allegations and the proceedings cannot be quashed as there are separate and distinct offences though the two offences arise out of the same facts. It is for the trial Court to examine whether two offences were distinct or same.

No ground for quashing is made out.

The petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

December 20, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No