

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3598-2016

Date of Decision:- 08.08.2016

Akbari

....Petitioner

Versus

U.T., Chandigarh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. H.P.S. Aulakh, Advocate, for the petitioner.

RITU BAHRI, J. (Oral)

Petitioner is seeking direction for quashing of order dated 29.04.2015 (Annexure P-1), passed by Additional Sessions Judge, Chandigarh and impugned order dated 31.07.2014 (Annexure P-2), passed by Judicial Magistrate, First Class, Chandigarh whereby application made under Section 156(3) Cr.P.C. for registration of FIR has been dismissed.

The petitioner had made a complaint that she was doing a shop of merchandise at Krishan Market, Sector 41, Chandigarh. She is a Muslim lady and was married to one Safi Mohammad, who used to work at construction site of accused-Sewa Singh at Sunny Enclave in the year 2006 and she used to work at the reception office of the accused. Husband of the petitioner (complainant) was an alcoholic and drug addict. He deserted her and gone to his village Pukhrali (Ropar). She developed friendship with the accused and he shifted to her in his house No.1856, Deep Complex,

Hallomajra. The complainant has alleged that thereafter the accused performed marriage with her and resided together in House No.1856. Subsequently, after visiting Manali, Goa and Bombay, he started to stay for nights with the complainant but later on the duration of his stay went on decreasing. On 21.11.2012, the petitioner came to know that the accused is father of one baby girl. Next day the accused came to her house, gave beatings and thrown out her of the house and snatched the cash and jewellery of the complainant. Thereafter, she filed a petition under Protection of Women from Domestic Violence Act, 2005 and sought that case be registered against the accused.

After going through the contents of the complainant, the trial Court came to the conclusion that there was no evidence to show that the accused has solemnized marriage with complainant at Jayanti Mandir. Moreover, the petitioner being Muslim lady, without taking divorce her husband Safi Mohammad, could not be solemnized second marriage. She being major could not induce by way of fake promise of marriage by the accused. At best she was live-in-relationship to the accused. In this background, a complaint under Protection of Women and Domestic Violence Act, 2005 has already been filed. Application under Section 156 (3) for registration of FIR was dismissed, vide order dated 31.07.2014 (Annexure P-2), passed by Judicial Magistrate, First Class, Chandigarh. The revision filed against the said order has been dismissed by the Court of Additional Sessions Judge, on 29.04.2015 (Annexure P-1).

After hearing the learned counsel for the petitioner, going through the record, this Court is of the considered view that the learned Courts below have rightly dismissed the application under Section 156(3),

filed by the petitioner and the same has been declined after appreciating the evidence in the correct prospective and does not require any interference. Such order, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited jurisdiction of this Court under Section 482 Cr.P.C., unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned order deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant petition is hereby dismissed as such.

August 08, 2016
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No