

225 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRR No. 2674 of 2013 (O&M)
DECIDED ON: FEBRUARY 19, 2016

YAMNA BAI AND ANOTHER

....PETITIONERS

VERSUS

ASHA RANI AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Kulbhushan Soi, Advocate
 for the petitioners.

Mr. Raman Goklaney, Advocate
for respondents No.1 to 7.

Mr. Kamal Narula, Advocate
for respondent No. 8

JASPAL SINGH, J

CRM No. 38021 of 2013

In view of averments made in the application, the same is allowed
and delay of 95 days' in filing the instant revision petition is condoned.

CRM No. 38020 of 2013

Application is allowed, as prayed for.

Main petition

Challenge in this revision petition is to the order dated January 28, 2013 passed by learned Additional Sessions Judge, Ferozepur whereby order dated January 25, 2012 passed by learned JMIC, Ferozepur vide which respondents were summoned to face trial under Section 195, 499, 500, 504 and 120-B IPC, has been set aside.

2. While assailing the impugned order, it has been argued by learned counsel for the petitioners that impugned order dated January 28, 2013 passed by learned Additional Sessions Judge, Ferozepur is absolutely against the well settled legal proposition. He has grossly erred in holding that the summoning order dated January 25, 2012 is unjustified as the learned Magistrate was not competent to take a cognizance in view of bar created under Section 340 Cr.P.C. In fact, learned Additional Sessions Judge has set aside a well reasoned order dated January 25, 2012 passed by learned Magistrate without assigning any cogent reason. As such the same is not sustainable in the eyes of law and is liable to be set aside.

3. On the other hand learned counsel for the respondents has supported the impugned order submitting that the same is absolutely in consonance with the legal proposition and calls for no interference by this Court especially in view of bar created by Section 195(i)(b) Cr.P.C.

4. After bestowing due consideration to the afore-said rival submissions made by learned counsel for the parties and scrutinizing the impugned order dated January 28, 2013 passed by learned Additional Sessions Judge, Ferozepur, this Court is of the considered view that it calls no interference, being absolutely in consonance with the legal proposition applicable to the facts and

circumstances of the case in hand.

5. Undoubtedly, Asha Rani and others preferred a complaint captioned as Asha Rani & others vs. Surjit Singh and others for offences punishable under Sections 302, 452 read with Section 120-B IPC and the same was dismissed as Asha Rani failed to prove the charge against the petitioners and others vide order dated October 13, 2010 passed by learned Additional Sessions Judge, Ferozepur. While passing the afore-said judgment of acquittal vide order dated October 13, 2010 learned Additional Sessions Judge, Ferozepur, who was seisin of the matter did not preferred to file any complaint while resorting to the provisions contained in Section 340 Cr.P.C. However, a complaint was filed by Asha Rani and others under Section 195(i)(b) Cr.P.C., which creates a complete bar of taking cognizance of the offences punishable under Sections 193 to 196, both inclusive under Sections 199, 200, 205 to 211 and 228 of Cr.P.C., when any such of offence alleged to have been committed or in relation to any of the proceedings in the court except on the complaint in writing of that court or of some other court to which that court is subordinate. Since, no such complaint has been opted to be filed by the learned Additional Sessions Judge, so a private complaint is not legally maintainable. Thus, vide order dated January 28, 2013 learned Additional Sessions Judge, Ferozepur has rightly set aside the summoning order dated January 25, 2012. The impugned order is absolutely legal and valid.

6. In the light of what has been discussed above, instant revision petition being devoid of merit is dismissed.

FEBRUARY 19, 2016
sham

(JASPAL SINGH)
JUDGE