

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

Crl. Rev. No.695 of 2015 (O&M)

Date of decision : 18.10.2016

Deepak and others

.....Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. G.S. Sandhu, Advocate for the petitioners.
Ms. Dimple Jain, AAG, Haryana.
Mr. Parveen Kataria, Advocate for respondent no.2.

ANITA CHAUDHRY, J.

This revision is directed against the order vide which the Addl. Sessions Judge, Jind has framed charges against the petitioners.

The factual matrix that is necessary to be exposited. The complainant was married to Rajesh in December, 2012. A complaint was given by her to the police in February, 2014 of harassment, cruelty and demand of BMW car. She had also made allegations against the father-in-law that he tried to force himself upon her on 29.08.2013, the rest of the family was away then. She had also alleged that she had complained to her husband but he threatened her and asked her to commit suicide. Upset with the incident, she tried to consume poison. She was taken to the hospital and later Panchayats were held. Allegations were made that she was given a tablet to ease her cold but she suffered abortion. She was finally turned out of the house on 17.11.2013.

The police presented the challan against the petitioners.

A petition under Section 482 Cr.P.C. was filed which was disposed of on 9.12.2014 being pre-mature. Liberty was given to the petitioners to raise all the pleas before the trial Court.

The trial Court has framed charges under Section 376/511 IPC besides under Sections 498, 323, 506 IPC against the father-in-law. Charge was framed under Section 313, 498-A, 323, 506 IPC against the husband. Against the mother-in-law, brother-in-law and sister-in-law, charge was framed under Sections 498-A, 323, 506 read with Section 34 IPC.

The submissions made on behalf of the petitioners are that there was no evidence that the complainant had conceived and the only report available is the urine report which though was positive but the complainant did not turn up for further tests and the Medical Officer in her report (Annexure P2/A) had reported that it was hard to say whether the complainant was pregnant and the ultrasound test was necessary and still the trial Court has framed the charge under Section 313 Cr.P.C. It was urged that the police did not find any truth in the allegations made against the father-in-law and the call details had found the presence of the mother-in-law and the sister-in-law in Safidon and the incident could not have occurred when other members were in the house. It was urged that the FIR lodged by the complainant was to counter the FIR lodged on 16.02.2014 by one of the petitioners and it was a case of false implication and in the absence of any evidence that the complainant was pregnant, charge could not have been framed under Section 313 IPC. It was urged that not even the sister-in-law and the brother-in-law have been spared.

The submission on behalf of the complainant and the State was that charge can be framed as there were allegations and sufficient material on record to make out a prima facie case against the accused and at that stage the trial Court could not conduct a roving inquiry and while exercising the revisional jurisdiction, the evidence cannot be appraised and it is for the trial Court to decide. It was urged that revisional powers can be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the facts do not constitute any offence. It was urged that there are documents to show that the complainant was pregnant and the complainant attempted suicide on the day the father-in-law attempted sexual assault and she was taken to Balajee Multi Speciality Hospital. It was urged that the FIR lodged by the petitioners has been cancelled and this fact has not been disclosed by the petitioners. The counsel has placed on record the cancellation report dated 21.04.2014. It was further submitted that the challan had been filed after an SIT was formed and there are specific allegations against all the persons. It was urged that recovery of the Swift car has still not been made. It was all urged that the call details referred to in the report under Section 173(2) Cr.P.C. have not been filed along with the petition and they are disputed facts which can be gone into only by the trial Court. Reliance was placed upon *Ashish Chadha Vs. Smt. Asha Kumari and another 2012(1) RCR (Crl.) 94*, *Hem Chand Vs. State of Jharkhand 2008(2) RCR (Crl) 510*, *Rajbir Singh Vs. State of U.P. and another 2006(11) RCR (Crl.) 410*, *State of Maharashtra Vs. Priya Sharan Maharaj 1997(2) RCR (Crl) 634* and *State of Bihar Vs. Ramesh Singh 1977 AIR(SC) 2018*.

It is beyond any dispute or doubt that at the stage of framing of charge the Court is not to weigh the evidence. The Stage for appreciating the evidence for the purposes of arriving at a conclusion as to whether the prosecution was able to bring home the charge against the accused or not would arise only after all the evidence is brought on the record at the trial.

In State of **M.P. Vs. Mohanlal Soni, 2000(3) RCR (Criminal)** 452: [(2000) 6 SCC 338], the Apex Court had held:

“7. The crystallized judicial view is that at the stage of framing charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.”

It was further held:

“.....As is evident from the paragraph extracted above if the court is satisfied that a prima facie case is made out for proceeding further then a charge has to be framed. Per contra, if the evidence which the prosecution proposes to produce to prove the guilt of the accused, even if fully accepted before it is challenged by the cross-examination or rebutted by the cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the particular offence then the charge can be quashed.”

In **Rajbir's** case (supra), while referring to **Stree Atyachar Virodhi Parishad Vs. Dilip Nathumal Chordia & Anr.**, the Apex Court had held that at the stage of framing of charge, the Court is not to see whether there are sufficient grounds for conviction or whether the trial is sure to end in conviction.

[Section 227](#) itself contains enough guidelines as to the scope of inquiry for the purpose of discharging an accused. It provides that "the

judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused". The 'ground' in the context is not a ground for conviction but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate inquiry in sifting and weighing the materials. Nor is it necessary to delve deep into various aspects. All that the Court has to consider is whether the evidentiary material on record, if generally accepted, would reasonably connect the accused with the crime.

The trial Court in its order has dealt with all the issues raised by the petitioner and had found that there was a prima facie case to frame the charges. It had noted that there were allegations and material to support the allegations. Para no.6 of the order reads as under:-

“6. The fact that all the accused were residing together in the matrimonial home of complainant is not disputed. The complainant in her complaint had also mentioned that when she disclosed about the incident dated 29.8.2013 to her husband Rajesh, mother-in-law Nirmala and sister in law Annu they threatened her not to disclose about this incident to anybody and also taunted her either to consume some poison or to commit suicide before a train. As per complainant, she took some insecticide on which her and mother in law took her to Balaji Hospital, Panipat and there also she was compelled not to disclose anything by threatening that she along with her parents would be killed. Along with the report under Section 173 Cr.P.C. the medical record regarding admission of prosecutrix in the ICU at Balaji Multi Specialty Hospital Panipat has been attached. The prosecutrix in her complaint has also alleged that after

coming to know that she has become pregnant her husband Rajesh gave her beatings. She fell ill from cough and cold. She was given tablets for abortion on the pretext of tablet for cough and cold. The tablets were without any wrapper due to which on 16.11.2013 she suffered abortion. Thereafter, her health started deteriorating and she was diagnosed to be suffering from TB. On 17.11.2013 she was thrown out of matrimonial home. As per the medical record attached with the report under Section 173 Cr.PC. the prosecutrix had tested positive for the pregnancy test on 25.9.2013 and also she was diagnosed to have been suffering from TB. In the report under Section 173 Cr.PC. it is though mentioned that in view of report of doctor qua the prosecutrix not being pregnant and not suffering from any abortion the offence under Section 313 of IPC was deleted and in this regard the report dated 25.7.2014 of lady M.O.G.H. Jind has been appended with the record but after going through the medical record of prosecutrix the said doctor has opined that it is difficult to say whether the prosecutrix was pregnant or not. In view of above said inconclusive opinion as well as above discussed facts alleged by the prosecutrix in her complaint a prima facie case for commission of offence under Section 313 of IPC is also made out against the accused husband i.e Rajesh.”

There is no reason to take a different view. This Court is not to weigh the evidence. The trial Court had rightly come to the conclusion that there were prima facie grounds for framing the charge. The revisional Court cannot analyze the facts or make any observations or appreciate the evidence while exercising revisional powers. The stage for appreciating the evidence for the purposes of arriving at a conclusion as to whether the

prosecution was able to bring home the charge against the accused or not would arise after the evidence is led at the trial.

I find no merit in revision and is dismissed.

18.10.2016

Sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No