

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

Crl. Revn No. 944 of 2016
Date of decision : 23.08.2016

Guddu @ Rajender and others

....Petitioners

versus

State of Haryana and anr.

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.P. Sharma, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana

Mr. Vijay Sangwan, Advocate
for respondent No. 2

RITU BAHRI, J. (Oral)

The present revision petition is directed against order dated 08.02.2016 and charge sheet dated 08.02.2016 passed by learned Addl. Sessions Judge, Narnaul in criminal complaint No. 33-RT dated 01.02.2010/02.06.2011 under Sections 302/306/498-A/506/34 IPC.

The marriage of the petitioner was solemnized with Neeta in the year 2002. The wife of the petitioner went missing in the year 2009. The petitioner along with his family members were summoned in a private complaint by the learned trial Court and the petitioner is in custody since 02.01.2016. Initially police filed the untraced report being Neeta did not found in F.I.R No. 347 dated 03.11.2009 under Sections 498-A/506/365/341 IPC. The complaint filed by respondent No. 2 was dismissed earlier but on revision, the order was reversed and the case was remanded back and thereafter, petitioner along with other family members were summoned to face trial (P-5). Thereafter, on 08.02.2016, charge sheet was prepared

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against the petitioners under Sections 302/306/498-A/506/34 IPC.

Learned counsel for the petitioner contends that after summoning orders were passed against the petitioners, without recording the pre-charge evidence, they could not be charge sheeted as they had a right to cross examine the witnesses which the complainant would lead at pre charge evidence.

Reference has been made to a judgment of Hon'ble the Supreme Court of India in a case of *Sunil Mehta and another v. State of Gujarat and another, 2013(3) SCC (Cri) 888* wherein it has been held that the learned Magistrate cannot frame charge against accused on the basis of evidence recorded at stage of issuing summoning order. Charge can be framed after complainant has produced evidence under Section 244 Cr.P.C and opportunity of cross examination is given to the accused.

Learned counsel for respondents are not able to cite any law contrary to the above.

In view of the above facts, the revision petition is allowed and order dated 08.02.2016 and charge sheet dated 08.02.2016 are hereby quashed and the trial Court shall give opportunity to the complainant to give his pre-charge evidence and thereafter, liberty be given to the petitioners to cross examine those witnesses and appropriate orders framing the charge be filed.

23.08.2016

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No