

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

CRM No.M-41101 of 2017 (O&M)
Date of Decision: November 02, 2017

Mohd. Ramjan

...Petitioner

VERSUS

State of Haryana and others

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rohan Mittal, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. against State of Haryana and other respondents for quashing the order dated 22.07.2016 passed by learned Chief Judicial Magistrate, Mewat vide which application filed by the petitioner under Section 240 IPC was dismissed and also order dated 01.09.2017 passed by learned Addl. Sessions Judge, Mewat, vide which revision filed by the petitioner was also dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that complainant-petitioner moved an application under Section 240 Cr.P.C. before the trial Court for framing the charges under Sections 420, 392 and 120-B IPC along with other charges mentioned in the report under Section 173 Cr.P.C. It is stated in the

and Sabooni on 28.05.2005 as per Muslim rights. Zule Khan has been residing with Aarif since 20.02.2005 and out of wedlock, two children were born. On 27.12.2012, when she was pregnant, due to some natural reasons bleeding started and the child died in the womb and on this Zule Khan, in collusion with father, got registered a case against Aarif. It is further stated that on 01.01.2013, Salauddin and Yasir came to house of complainant and caused injuries to Aarif with kicks and fist blows. On 04.01.2013, Alauddin and Kutbuddin had broken the finger of the complainant and Nasif inflicted injury to him and forcibly took possession of the house of the complainant and turned them out. It is also stated that on 19.01.2013, they were residing in the village Meoli and they took the Buffalo and valuable articles in Innova vehicle without permission and consent of the family members of the complainant. It is further stated that on the same day, when the complainant along with Saheeda, Chhota and Asina and 10-15 respectable persons came to the house and checked the articles, then they found that 100 grams of gold, silver ornaments, ₹40,000/-, refrigerator, washing machine etc., were missing.

Learned Magistrate, after considering the facts in detail, found prima facie case and ordered that accused be charge-sheeted only under Sections 323 and 506 IPC. The Court held that applications filed to Superintendent of Police on 07.07.2013 with regard to the occurrence took place on 01.01.2013, 04.01.2013 and 19.01.2013 are not prima facie indicating that there is any kind of unlawful assembly, on the basis of which, it can be presumed that offence under Section 147/149 IPC has been committed. The Court also took view that it looks improbable that accused

complainant and he will not make even a single complaint to the police or the villagers will not intimate the police.

Learned Magistrate, after discussing the material on the record, framed the charges only under Sections 323 and 506 IPC. It is also discussed that one of the witness in statement under Section 161 Cr.P.C. has deposed about presence of police vehicle at the time of departure of the accused persons on 19.01.2013 and handing over of keys to her by one of the accused.

At the time of framing of the charge, the Court is to see, prima facie, which offence is made out. The Court has framed the charges under Sections 323 and 506 IPC. The charge can be amended at any stage of the case if further evidence comes on record. The Court, after discussing the material before it, has come to the conclusion that only charges under Sections 323 and 506 IPC are made out. Both the Courts below have given reasonings as per evidence and law. No illegality has been committed by the Courts below while passing the impugned orders dated 22.07.2016 and 01.09.2017.

Therefore, finding no merit in the present petition, the same is dismissed.

November 02, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No