

Criminal Misc. M- No. 6772 of 2017 (O&M)

Date of decision : March 24 2017

Sombir and others

.....Petitioners

Versus

Balbir

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Amit Kumar Goyal, Advocate
for the petitioners.

LISA GILL, J.

Prayer in this petition is for quashing of order dated 26.04.2016 (Annexure P-4) passed by the learned Judicial Magistrate Ist Class, Charkhi Dadri, District Bhiwani, vide which the petitioners have been summoned to face trial under Sections 323, 452, 506 IPC as well as order dated 31.01.2017 (Annexure P-6) passed by learned Additional Sessions Judge, Bhiwani upholding the said order. The petitioners further pray that order dated 19.02.2015 (Annexure P-3) as well as complaint dated 22.08.2014 (Annexure P-1) be quashed.

The brief facts of the case are that complaint dated 22.08.2014 (Annexure P-1) was filed by the respondent under Sections 323/354 (A)(B), 452, 506 IPC against the petitioners. This complaint was dismissed by the learned Judicial Magistrate 1st Class, Charkhi Dadri on 08.12.2014 (Annexure P-2). Revision petition preferred by the respondent – complainant against this order was allowed on 19.02.2015 (Annexure P-3)

by learned Additional Sessions Judge, Bhiwani and the matter was remanded to the learned Judicial Magistrate for passing a fresh order. It is not in dispute that order dated 19.02.2015 was not challenged by the petitioners.

The learned trial Court vide order dated 26.04.2016 summoned the petitioners for the offences punishable under Sections 323, 452, 506 IPC while finding no case for summoning them under Section 354 (A)(B) IPC. Revision petition preferred by the petitioners has been dismissed by the learned Additional Sessions Judge, Bhiwani on 31.01.2017 (Annexure P-6).

Learned counsel for the petitioners submits that order dated 08.12.2014 (Annexure P-2) was correctly passed but grave prejudice has been caused by remand of the matter to the learned Judicial Magistrate by the revisional Court on 19.02.2015. The present complaint is merely a counterblast to FIR No. 184 dated 19.06.2014 registered under Sections 323, 341, 506, 34 IPC against the complainant side. The said matter is still pending. It is, thus, prayed that this petition be allowed. The impugned orders be set aside and consequently complaint dated 22.08.2014 be dismissed.

I have heard learned counsel for the petitioners and have gone through the file with his assistance.

It is not in dispute that order dated 19.02.2015 (Annexure P-3) wherein the matter had been remanded to the learned Judicial Magistrate Ist Class, Charkhi Dadri was accepted by the petitioners and never challenged by them. Therefore, it does not lie with the petitioners to challenge the said order at this stage. It is rightly held by the learned revisional Court vide

order dated 31.01.2017 that at the stage of summoning the accused persons, the Magistrate is not required to explicitly state the detailed reasons for issuance of summons if it is felt that there are sufficient grounds to proceed against the accused. It has been observed that there is specific medical evidence on record. The complainant is shown to have received injuries on his hand, head, right eye, left shoulder, left hand and thigh. His wife received injuries on her thigh. Preliminary evidence was led by the complainant party. All the said witnesses have supported the complaint. The factum of all the witnesses being the family members cannot be a ground to disbelieve the un-rebutted evidence, keeping in view the specific facts and circumstances of the case where the alleged occurrence has taken place inside their house. Mere pendency of FIR No. 184 dated 19.06.2014 registered under Sections 323, 341, 506, 34 IPC by itself cannot be a ground for dismissal of the complaint. Learned counsel for the petitioners is unable to point out any ground for quashing the complaint dated 22.08.2014 at this stage or any illegality or infirmity in the impugned orders to warrant interference by this Court.

Consequently, this petition is dismissed. It is clarified that none of the observations in this order shall be construed to be an expression of opinion on the merits of the case and shall have no bearing on the trial.

March 24, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No