

In the High Court of Punjab and Haryana at Chandigarh

CRR No. 587 of 2015

Date of Decision: 20.3.2017

Yogesh Prabhakar

---Petitioner

versus

Monika Prabhakar @ Monika Sharma @ Monika

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Petitioner in person.

Mr. B.R.Rana, Advocate
for respondent.

Rekha Mittal, J.

The present petition directs challenge against order dated 05.01.2015, framing charge for committing offence punishable under Sections 406 and 498-A IPC against the petitioner and Renu Prabhakar.

The sole submission made by the petitioner is that the order passed by the Judicial Magistrate is in complete violation of the directions issued by this Court vide order dated 27.05.2014 passed in CRM-M-18674 of 2014, therefore, the order impugned and the charge framed against the petitioner and his co-accused cannot be allowed to sustain and liable to be set aside.

Counsel for respondent, while refuting contentions of the petitioner, would submit that at the time of framing of charge, the Court is

neither obliged to deeply scrutinize the evidence nor pass a detailed order.

I have heard the petitioner in person, counsel for the respondent and perused the paper book.

Monika Prabhakar wife of Yogesh Prabhakar filed a private complaint for offence under Sections 406 and 498-A IPC before the Court of Judicial Magistrate Ist Class, Ambala in September 2007. Yogesh Parbhakar filed petition CRM-M-18674 of 2014 for quashing of criminal complaint bearing No. 224 dated 13.09.2007 / 21.09.2013 titled “Monika versus Yogesh Prabhakar”, summoning order dated 09.07.2009 and consequent proceedings.

The petition was disposed of by this Court on 27.05.2014 and a relevant extract from the order reads as follows:-

“ The petitioner wishes to withdraw the present petition with liberty to raise all the points before the trial Court at the time of framing of charge.

Dismissed as withdrawn with the aforesaid liberty. The trial Court shall pass a speaking order in respect of framing of charges, if any.”

A plain reading of order dated 05.01.2015 would make it evident that the trial Magistrate has not passed a speaking order while framing charge against the petitioner and his co-accused.

The order passed by the trial Court reads as follows:-

“Heard.

A prima facie case punishable under Sections 406 and 498-A IPC is made out against the accused. They have been charge sheeted accordingly.....”

As the order passed by the trial Court framing charge against the petitioner and his co-accused is in complete violation of the directions issued by this Court, the same cannot be allowed to sustain and ordered to be set aside.

For the aforesaid reasons, the petition is allowed. The impugned order dated 05.01.2015 and the charge sheet of the even date are ordered to be set aside. The matter is remitted to the trial Court for considering the question of charge afresh, in complete consonance of the order dated 27.05.2014 passed by this Court.

(Rekha Mittal)
Judge

20.3.2017
mamta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No