

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

CRM-M-28267-2018

Date of decision:-31.7.2018

Rupinder Kaur

...Petitioner

Versus

Rupinder Kaur alias Preet and others

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.K.L. Kohli, Advocate
for the petitioner.

H.S. MADAAN, J.

By way of filing of the present petition under Section 482 Cr.P.C., petitioner – Rupinder Kaur seeks quashing of order dated 20.4.2017 passed by the trial Court vide which her complaint under Section 313 IPC read with Section 114 and Section 315 IPC had been dismissed as well as order passed by learned Additional Sessions Judge, Chandigarh dated 11.5.2018 vide which the revision petition dated 4.7.2017 had been dismissed, further craving for issuance of a direction that complaint be referred to Chief Judicial Magistrate, Chandigarh for

further inquiry.

Briefly stated, the facts of the case are that complainant – petitioner Rupinder Kaur had brought a complaint against her daughter-in-law - Rupinder Kaur @ Preet, daughters'-in-law father Harjit Singh and mother Paramjit Kaur on the allegations of Rupinder Kaur @ Preet voluntarily causing miscarriage without consent with an intent to prevent child being born alive in connivance with her parents i.e. father Harjit Singh and mother Paramjit Kaur. After filing of the complaint in the Court of Judicial Magistrate Ist Class, Chandigarh, the complainant led evidence. Learned Magistrate dismissed the complaint with the following observations contained in paras No.8 to 11, which are being reproduced as under:

8. After hearing learned counsel for the complainant, this Court is of the considered view that the complainant has failed to prima facie show that accused persons have committed offence punishable under Section 313 read with Section 114 of IPC. Firstly, as per own averments of the complainant in her deposition that the abortion had taken place at Village Sunam, Punjab. Meaning thereby this Court does not have territorial jurisdiction to try the present complaint as per the requirement of Section 177 Cr.P.C.

9. Section 177 of Cr.P.C. provides:-

“Section 177 Cr.P.C.:- ordinary place of inquiry and trial: Every offence shall ordinary be inquired into and tried by a court within whose local jurisdiction it was committed”.

10. According to the Section 177 Cr.P.C. every offence shall ordinarily be inquired into and tried by the Court within whose jurisdiction it was committed. Meaning thereby to invoke the jurisdiction of Court in Chandigarh the offence should have been committed within the territorial jurisdiction of this Court. But in the present case, the offence took place at Sunam and not at Chandigarh. Also the complainant did not examine the Doctor who got conducted the miscarriage of the child of accused no. 1. The evidence of CW3 Mangla Dogra and CW2 Dr. Sangeeta Singh is not of any help to the complainant because Dr. Mangla Dogra disclose the fact of pregnancy of accused no. 1 and Dr. Sangeeta deposed that on 10.11.2012 accused no. 1 Rupinder came to her for check-up. Moreover, if we go by the language of Section 313 IPC it provides consent of the women i.e. the lady who is pregnant. The complainant does not have locus standi to file present complaint. In considered view of this Court, there is no sufficient prima facie material for summoning of accused no. 1 to 3.

11. Prima facie there is no evidence on record against the accused no. 1 Rupinder Kaur. Hence, the present complaint is hereby dismissed. File be consigned to the record room after due compliance.

The complainant felt aggrieved by the said order passed by learned Judicial Magistrate Ist Class, Chandigarh and challenged the same by way of filing a revision petition in the Court of Sessions, which was assigned to learned Additional Sessions Judge, Chandigarh. Learned Additional Sessions Judge, Chandigarh vide order dated 11.5.2018 dismissed the revision petition. The relevant part of that order is contained in para No.4, which is reproduced as under:

4. After perusal of the case file and after hearing ld. Counsel for the parties, this court is of the considered view that ld. Trial court has decided the matter in a fair and justified manner and no interference is required to be made in the said order. It is admitted fact that relations between the parties is strained and complainant has got registered FIR No.225 dt. 14.6.2013 under Section 452/342.323/506/34 IPC against respondent no.1 and respondent no.1 has also got registered an FIR No.41 dt. 24.2.2013 u/s 406/498A IPC against the complainant and her son. Apart from this, another petition has been filed by respondent no.1 against her husband Shivjeet Singh for maintenance. It is the case of the complainant that complainant had left the home on 6.5.2011 in company of respondents no.2 &3 and stayed there upto 24.10.2012 and during her stay at Village Chhajli, the respondents had caused mis-carriage of the child by abortion. Admittedly, the abortion was conducted at Sangrur. Therefore, the court at Chandigarh does not have jurisdiction to try this

complaint, because as per Section 177 Cr.P.C. every offence shall ordinarily be inquired into and tried by the court within whose jurisdiction, it was committed and as such the court at Sangrur has territorial jurisdiction to try this complaint. Even seen from another angle, Section 313 IPC reads as under:-

Causing miscarriage without woman's consent.--

Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with 2[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

However, woman referred to in that Section is the lady who is pregnant. It does not refer to mother-in-law or father. As such, the complainant neither has a locus-standi to file present complaint nor has a prima-facie case.

Still feeling dissatisfied, the complainant has knocked at the door of this Court by filing the present petition under Section 482 Cr.P.C.

I have heard learned counsel for the petitioner besides going through the record.

Section 482 Cr.P.C. deals with inherent powers of the High Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may

be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

The orders passed by the Courts below are well reasoned ones, based upon proper appraisal and appreciation of evidence and correct interpretation of law. The Courts below have exercised the jurisdiction vested in them in a proper and judicious manner and it is certainly not a case of exercising jurisdiction not vested in the Courts or exercising it in a wrong or erroneous manner. By way of filing the present petition, the petitioner has raked up certain contentions on merits including the jurisdiction point but those cannot be gone into at this stage. The limited concern of this Court is to see that there is no abuse of process of Court and to pass order to secure ends of justice. This Court is not to reappraise the evidence and go into the merits of the case in depth, which has already been done by the Courts below.

Learned counsel for the petitioner has submitted that in FIR No.41 dated 24.2.2013, under Sections 498-A, 406 IPC, Police Station Chhajli, the present petitioner and her husband have since been acquitted by the Court of Judicial Magistrate Ist Class, Sunam. May it be so. However, this judgment does not help the petitioner in any manner because the controversy involved in the two cases is quite different and distinct. Similarly the judgment **State of M.P. Versus Suresh Kaushal and another, (2003) 11 SCC 126** referred to by learned counsel for the petitioner is not helpful to the petitioner due to different facts and circumstances and the context in which such observations have been made.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

31.7.2018

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No