

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Misc. No. M-45216 of 2017
Date of Decision: 29.10.2018**

Gurnam Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vivek Salathia, Advocate
for the petitioners.

Mr. Jagmohan Ghumman, DAG, Punjab.

Mr. A.S.Manaise, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J

The petitioners have assailed the order dated 26.10.2017 passed by the Additional Sessions Judge and the order dated 9.8.2017 passed by the Magistrate vide which charge had been framed in a complaint case.

Counsel for the petitioners contends that the trial Court had framed charges under Section 406, 498-A, 506 IPC against the petitioners who are the father-in-law and mother-in-law. He further submits that the marriage of their son had taken place in 2004 and the son's wife left the matrimonial home in 2006 and filed a number of cases including the complaint under the Domestic Violence Act and the complaint was dismissed in 2011 and by concealing that fact, on identical grounds a

complaint was filed where the petitioners and their son were summoned and charge was framed and the petitioners filed a revision and the same has been dismissed on the ground that the same was not maintainable. The counsel further submits that order framing charge is not an interlocutory order and could be assailed in revision. Reliance was placed upon ***Khagesh Kumar Goel versus State of M.P. and others 1998 CrLJ 776***. The counsel also submits that the matter had been settled by this Court in the case reported as ***Haryana Reclamation and Development Corporation Ltd. vs. State of Haryana (1990) 2 JT (SC) 328***.

The counsel appearing for respondent No. 2 urges that though in para 5 of the order, the revisional Court noticed the fact that the revision was not maintainable but it has dealt with the merits.

Responding to the submissions, counsel for the petitioners contends that their submissions have been noted in para 4 of the order but the Additional Sessions Judge has not dealt with it and the case needs to be remanded for examination of the revision on merits.

A perusal of the order shows that the Additional Sessions Judge, Amritsar held that revision was not maintainable and the order was not revisable which is contrary to the settled law. The order framing charge is not an interlocutory order and could be assailed in revision and revision was maintainable. Such an order is not hit by the provision of Section 397 (2) Cr.P.C. In other words, it can be said that if the petitioners claim that charge could not be framed and that plea is accepted, that would put an end to the trial. The Court below has not dealt with the merits of the case.

The petition is allowed. Impugned order dated 26.10.2017 is set aside. The matter is remanded to the Additional Sessions Judge who would

hear the parties again and pass order as per law. The parties are directed to appear before the Court below on 19.11.2018.

**(ANITA CHAUDHRY)
JUDGE**

October 29, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No