

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

CRR No.395 of 2019 (O&M)
Decided on:- February 14, 2019.

Manju Bala.

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Aditya Jain, Advocate
 for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present criminal revision against the order dated 09.01.2019 passed by learned Judicial Magistrate 1st Class, Sonapat, whereby the application filed by the prosecution to frame additional charge against the accused under Section 354 IPC was dismissed.

Similar application was earlier dismissed by learned trial Court vide order dated 13.11.2017.

Learned counsel for the petitioner has argued that learned trial Court has gravely erred in law in not considering the case of prosecution for framing charge under Section 354 IPC. Earlier application of the petitioner for framing charge under Section 354 IPC against the respondents-accused was dismissed by the trial Court vide order dated 13.11.2017 merely on the

ground that the said application was filed at a premature stage as the testimony of the petitioner was yet to be tested on the anvil of cross-examination of complainant.

I have heard learned counsel for the petitioner.

The argument of learned counsel for the petitioner is that earlier application filed by the petitioner was dismissed by the trial Court vide order dated 13.11.2017 on the ground that the sole testimony of the complainant without being cross-examined is not worth of credence to frame additional charge under Section 354 IPC. Therefore, at that stage, the matter was premature. However, this Court finds that petitioner Manju Bala while appearing before the trial Court as PW1 has categorically deposed during her cross-examination that the police did not take her torn shirt in police possession. Even the complainant did not produce the said clothes during her evidence. Thus, there is no change in circumstances in which the previous order was passed by the trial Court on 13.11.2017. Even otherwise, there is material improvement in the testimony of the petitioner-complainant as PW1. In her complaint Ex.PW1/A, she has mentioned that accused Ramphal had put his hand on her breast, whereas during her examination-in-chief as PW1, she has stated that accused Ramphal was continuously misbehaving with her. There is no such further elaboration of the continuous misbehaviour.

Therefore, this Court does not find any illegality in the impugned order dated 09.01.2019 passed by learned trial Court and no interference is warranted with the same.

Accordingly, affirming the impugned order dated 09.01.2019 passed by learned trial Court, present criminal revision, being devoid of any merit, is dismissed.

February 14, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No