

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 847 of 2019 (O&M)
Date of decision : December 07, 2019

Meenakshi Sharma and another

....Petitioners

versus

State of Punjab and another

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Fateh Saini, Advocate, for the petitioners

Ms. Sakshi Bakshi, AAG, Punjab for the State/
respondent no. 1

Mr. Atul Goyal, Advocate, for respondent no.2

Fateh Deep Singh, J. (Oral)

A case by way of FIR No. 129 dated 21.10.2016 under Sections 406, 498-A, 354-A, 506 IPC was registered with Police Station Women, Ludhiana by complainant Reema Sharma against her estranged husband Ajay Sharma and his family.

The brief allegations were to the effect that the marriage between the two was solemnized on 29.9.2009 where sufficient

dowry articles were given including cash and gold and the family had too given numerous articles of Ishtridhan for the use of the complainant. The allegations come about that the accused who were entrusted with the same usurped it and put it to their own use and rather on demand of more had been harassing her and therefore physically and mentally torturing her.

The court of learned Judicial Magistrate Ist Class, Ludhiana vide his impugned order dated 5.2.2019 finding prima face case framed the charges under Sections 406, 498-A, 354A, 506, 323, 342, 120-B IPC. The same is subject matter of challenge in this revision petition by the petitioners.

Heard counsel for the parties and perused the records.

Learned counsel for the petitioner at the very onset sought to hammer home the point that the entire allegations levelled by the complainant are general and vague and that the court below has failed to take cognizance of the same that no prima facie case was made out and has sought reliance of **State of Haryana vs Ch. Bhajan Lal, 1991(1) R.C.R. (Criminal) 383; Ajay Mitra vs State of M.P., 2003(1) R.C.R. (Criminal) 674; Preeti Gupta vs State of Jharkhand, 2010(7) SCC 667; Poonam Nagar vs State of Haryana and anr., 2016(1) R.C.R. (Criminal) 119; Sukhdeep Kaur**

and another vs State of Punjab and another, 2015(4) R.C.R. (Criminal) 892; Rakesh Kumar and others vs State of Punjab and others, 2009(2) R.C.R. (Criminal) 565; Smt. Rani vs State of Haryana, 2006(1) R.C.R. (Criminal) 985 and Kiran vs State of Haryana, 1999(1) R.C.R. (Criminal) 97.

Learned State counsel assisted by counsel for the complainant has sought to assail the arguments on the grounds that earlier an application for discharge of the accused was moved before the learned Magistrate which was dismissed and the said order was never challenged thereafter and that on account of bar of Section 362 Cr.P.C. the petitioners are precluded from laying challenge to the same.

Going through the submissions of the two sides as well as the records before this Court, the position on the framing of charges has been well considered by their Lordships of the Hon'ble Apex Court in **V.C.Shukla vs State through C.B.I, 1980 Supreme Court Cases (Cri) 695** and thereafter in **R.S.Nayak vs A.R.Antulay and another, 1986 Supreme Court Cases (Cri) 256** where their Lordships enunciating on the principles of framing of charge have held that the test as to the truth and veracity of the evidence which the prosecution proposes to adduce are not to be meticulously

adjudged and the standard test of prima facie case is to be applied. Therefore, squarely answers the lengthy arguments that have sought to be made by counsel for the petitioners over the very claim of the petitioners that the petitioners are residing separate from the principal accused and have their own dwelling unit for which this Court is not supposed to inquire into and give its opinion as it is the subject matter of evidence to be adjudicated at the trial. The ratios cited on behalf of the petitioners are at much variance as exercise of powers under Section 482 Cr.P.C. and Section 401 Cr.P.C. are poles apart. It is there that in the exercise of revisional powers the Court has very limited jurisdiction to test the very legality and propriety of a finding or order and therefore, the arguments that are more on the exercise of inherent jurisdiction of this Court do not come to the aid of the petitioners. In the impugned findings, the Court has given a well reasoned finding that on the basis of the documents and the allegations by way of evidence on the records were sufficient enough to frame the charges and has done so in the light of the same. More-so the earlier application for discharge by accused Meenakshi Sharma and Kulvir Sharma was dismissed by the learned Judicial Magistrate 1st Class on 18.4.2018 and it is fairly conceded at the bar by the counsel for the petitioners that the same

has never been assailed of and thus has attained finality is another distressing feature for the revisionists/petitioners.

Learned counsel for the petitioners to the arguments of counsel for the respondents could not differentiate the conclusion drawn in the discharge application and the present impugned order wherein the courts below had discussed at length. Since this Court has restricted powers by way of revision and cannot adjudge on to the assailments which are more on merits of the evidence and therefore, the petition being devoid of merit stands dismissed.

December 07, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No