

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

CRM-M-45839-2017

Date of decision: 17.01.2019

Darshan Masih and another**...Petitioners****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- None for the petitioner.

Mr. Sidakmeet Sandhu, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for issuance of appropriate direction to respondent Nos. 1 to 4 for registration of FIR against respondent Nos. 5 to 12 under Sections 148, 452, 323, 506 and 149 of the IPC.

Reply, by way of affidavit of DSP, City Gurdaspur, is on record and in para Nos. 2 and 3 of the reply, the following submissions are made:

“2. That the MLR No. 309/RG/20/9/17/CH/GSP (Annexure P-2) of Kiran (petitioner No. 2) has been received from the Civil Hospital, Gurdaspur. As per MLR, 3 injuries are mentioned and all simple. However, the statement of the victim Kiran was got recorded by ASI Jagdish Singh, Police Station Tibber that “she had performed court marriage with Darshan Masih son of Ghogha Masih resident of Bhulle Chak and now she have given birth to a child presently age of 6 months. My parent's family still quarrels with me. On dated 20.09.2016, I had gone to take vegetable at Puley rivulet Bhulle Chak shop and the time was around 9.30 A.M. My brother Raja and Prince sons of Mangta Masih, mother Palwinder Kaur came to me and my father Mangta Masih also reached and immediately on coming started quarreling with me and said that you have not performed your marriage with our will. Then, my brother Raja gave a blow of the handle of spade (kassi) on my right arm and then prince gave a blow of handle of spade (kassi) on my waist. My mother caught me hold from my hairs dragged me and my father by giving me

leg kicks caused injury on my right leg. Then Swaran Singh Member got me free from their clutches and in the meanwhile my husband came there who on seeing me inflicted with injuries took me to the Civil Hospital, Gurdaspur where my medical report was issued and medicine was provided to me. I apprehend danger from my family. Appropriate legal action against them may please be taken. As per the statement of the petitioner No. 2 namely Kiran and MLR, the offence under Section 323/34 IPC was made out. The offence is non-cognizable in nature thus the petitioners have a right to file the case in the learned Court. Hence, the DDR was registered vide G.D. No. 14 dated 21.09.2017. The copy of DDR is attached herewith the petition as Annexure P-4. However, the preventive action (Calendra 107/151 Cr.P.C. has been initiated) against the respondent Nos. 5 to 12 vide DDR o. 16 dated 11.04.2018.

3. That during the enquiry, the quarrel between the both parties in the area of Pulley rivulet Bhulle Chak shop and not for house in the house of the petitioner. The offence under Section 452 IPC was not made out.”

Learned State counsel, on instructions from ASI Victor Masih, has submitted that in fact there is a dispute regarding the court marriage performed by petitioner No. 2 Kiran with petitioner No. 1 Darshan Masih which aggravated the situation and there was quarrel between both the sides and no offence under Section 452 IPC was found to be made out as the incident did not take place in the house of the petitioners and the police has already submitted a Calendra under Sections 107/151 Cr.P.C. as preventive measure.

In view of the above, this petition is rendered infructuous.

However, liberty is granted to petitioners to approach the trial Court for redressal of their grievance, if any, by way of filing of a complaint, if so advised.

January 17, 2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*