

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

275

CRM-M-46709-2017 (O&M)

Date of decision: 10.07.2019

Anju Garg

..... Petitioner

Versus

State of Punjab and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. S.S. Bhinder, Advocate  
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. K.B. Raheja, Advocate  
for respondent No.2.

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**ANIL KSHETARPAL, J. (ORAL)**

Petitioner has filed this petition challenging the order passed by learned Additional Sessions Judge, Barnala dated 21.09.2017 accepting the revision and set aside the charge-sheet against respondent No.2-Smt. Neeraj Jindal.

Learned counsel for the petitioner has raised two arguments:-

1. The petitioner before the Court of Additional Sessions Judge had only challenged the charge-sheet framed on 06.04.2017 but never challenged the order of charge dated 22.02.2017 and therefore, the order of Additional Sessions Judge is incorrect.
2. Respondent No.2 is a co-sharer and she is sold some part of the undivided land to the petitioner without disclosing the fact of mortgage.

On the other hand, learned counsel for the respondent has

submitted that the order dated 22.02.2017 is a step towards framing of charge as required in the Code of Criminal Procedure. The arguments on the framing of charge were heard and the Court decided to frame charge on 22.02.2017 and subsequently, the charge-sheet was framed on 06.04.2017. He further submitted that the complainant-respondent No.2 had not mortgaged her share in the bank and she has sold the property comprised in specific khasra numbers to the petitioner and such property is not under any encumbrance.

After hearing learned counsel for the parties, this Court is of the view that there is no substance in both the contentions of learned counsel for the petitioner. The order framing of charge or the order passed by the Court after hearing arguments on framing of charge and actual framing of charge-sheet are not two steps but part of one action of the Court. In fact, framing of charge-sheet is a follow up of the order of the Court deciding to frame the charge against the accused. The ultimate action of the Court is framing of the charge. The charge has been provided in Chapter XVII and XVIII of the Code of Criminal Procedure. In such circumstances, it cannot be said that merely because the order of charge was not specifically challenged before the Revisional Court, therefore, that order has become final or the revision filed before the Revisional Court was defective. The effect of order deciding to frame charge is reflected in the charge-sheet and therefore, once charge-sheet has been challenged, the order deciding to frame charge obviously would come within its sweep.

Next argument of learned counsel is also equally erroneous as Smt. Neeraj Jindal-respondent No.2 was a co-sharer in the joint land. She had not mortgaged her share in the joint property. She has sold her share

identified by specific khasra numbers through a registered sale deed. Merely because other co-sharer had mortgaged his share would not result in encumbering the share of Smt. Neeraj Jindal, therefore, the Revisional Court had correctly found that the order deciding to frame charge followed by charge-sheet qua respondent No.2 is not sustainable.

In view of the discussion made above, there is no ground to interfere.

The petition is dismissed.

10.07.2019  
D.Bansal

( ANIL KSHETARPAL )  
JUDGE

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|---------------------------|----------|
| Whether speaking/reasoned | Yes / No |
| Whether Reportable        | Yes / No |