

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 1306 of 2018 (O&M)
Date of decision : December 09, 2019

Deepak

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Ms Loveleen Dhaliwal, Advocate, for the petitioner

Mr. Amrik Narwal, DAG Haryana for the State

Mr. Vinod Bhardwaj, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

In case got registered by way of FIR No. 226 dated 9.9.2016 under Sections 313, 323, 498-A, 506, 354-B and 406/34 IPC, Police Station City Narwana, the court of learned Additional Sessions Judge-I, Jind through impugned orders dated 31.10.2017/9.1.2018 has charge sheeted accused Deepak, Rajender Duhan and Bimla for offences under Sections 498-A, 323, 313, 354-B, 406 read with Section 34 and 506 IPC. The same is

sought to be assailed in this criminal revision by the aid of Section 401 Cr.P.C.

Heard counsel for the parties and perused the records.

The primary grouse and argument of the petitioner is over the framing of charges under Section 313 IPC. It is vehemently submitted by counsel for the petitioner that there is no medical evidence to bring about allegations of forcible termination of pregnancy and therefore, the court had acted in patent illegal manner in framing the charge and has sought to go through various statements of the witnesses in this regard. The same is sought to be opposed by the learned State counsel on the grounds that it is well illustrated in the documentary and oral testimonies that the victim was pregnant and which got aborted on account of act and conduct of the accused and therefore, falls within the definition of induced abortion.

Going through the records and the submissions, Section 312 IPC deals with causing of miscarriage and which prescribes punishment even if such miscarriage is not caused in good faith for the purpose of saving the life of the woman or even if the woman herself do miscarriage. Section 313 IPC deals with causing of miscarriage without woman's consent. In the instant case the

statement of the woman shows that she was given medicine for miscarriage well illustrated in the own documents relied upon by the revision petitioner's side. Though in the records, the Investigating Officer claims that matter of miscarriage did not come under his investigations. However, the statements of Dr. Raman Sharma and that of Dr. Sarita Pradhan it is highlighted that some complication by way of bleeding had come about and which is well illustrated by the statement of the wife Jyoti. When confronted with the medical evidence based on the record by way of impeachable evidence shows the lady after her marriage had become pregnant and which pregnancy as per her claim was got aborted by the accused by giving her medicines. The law on framing of charge is well enunciated in **V.C.Shukla vs State through C.B.I, 1980 Supreme Court Cases (Cri) 695** and **R.S.Nayak vs A.R.Antulay and another, 1986 Supreme Court Cases (Cri) 256** where the test of prima facie case has been laid down by the Hon'ble Apex Court.

Reverting back to the instant case at the time of framing of the charge, the Court is not to critically evaluate and scrutinize the evidence as at a trial while deciding the case on merits and has only to go through the prima facie nature of the evidence and the allegations and the same are well enunciated in the present case.

Learned counsel for the petitioner could not bring about any illegality or perversity of the trial court at the time of passing of the impugned order. It has been rightly concluded by the court below that there was sufficient evidence on record to attract the offences under Section 313 and 354-B IPC. Learned counsel for the petitioner could not convince this Court as to any illegality or perversity in the impugned findings which needs to be uphold. The revision petition being devoid of merit stands dismissed.

December 09, 2019

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(Fateh Deep Singh)

Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>