

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-3155-2019 (O&M)

Date of Decision:-26.11.2019

Santokh Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Abhinav Gupta, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court challenging order dated 24.9.2019 passed by learned Additional Sessions Judge, Jalandhar, whereby Trial Court has ordered for framing of charges against the petitioner for offences under Sections 120-B, 363, 366-A, 376 and 342 of Indian Penal Code.
2. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that even as per the FIR the allegations as regards commission of rape are against Gurjit Singh son of the petitioner and that the only allegation against the petitioner is that he had threatened the prosecutrix to solemnize marriage with his son Gurjit Singh failing which her reputation would be spoiled in the village.
3. The learned counsel for the petitioner has submitted that he has already filed a petition in this Court seeking quashing of FIR i.e. CRM-M-29059 of 2016, which is presently fixed for 28.2.2020, wherein this Court had issued following directions to the Trial Court on 9.9.2019:

“Learned counsel for the applicant has submitted that in fact the petitioner who is father of main accused Gurjit Singh has falsely been implicated by the complainant by raising allegations in the FIR to the effect that after Gurjit Singh had committed rape upon the complainant then the petitioner threatened the complainant on the next date to solemnize marriage with the main accused failing which the reputation of the complainant would be harmed in the village and amongst relatives. Learned counsel has submitted that the aforesaid allegations were incorporated in the FIR solely with the aim of roping in more number of accused and that in fact when the statement of the complainant came to be recorded in terms of Section 164 Cr.P.C. (Annexure P-2), she did not utter a word against the petitioner.

Having heard learned counsel for the petitioner, the application is disposed of with a direction to the trial court to meticulously examine all the evidence before it at the time of considering framing of charges against the petitioner including the statement of prosecutrix recorded under Section 164 Cr.P.C.”

4. The learned counsel has submitted that although the Trial Court was informed about passing of the aforesaid order dated 9.9.2019, but despite the same, the Trial Court has chosen to pass an absolutely non-speaking order regarding framing of charges.
5. Notice of motion.
6. On asking of the Court, Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab, accepts notice on behalf of the respondent-State.
7. While the Trial Court is not expected to delve into detailed discussion at the time of considering the framing of charges, but the present case is on slightly different footing inasmuch as specific directions had been issued to the Trial Court to consider and examine the evidence meticulously at the time of framing of charges. However, the impugned order is an absolutely non-speaking order and does not reflect that all the relevant aspects have been taken into account.

8. Although, the learned counsel for the petitioner has submitted that the Trial Court had been duly informed about passing of order dated 9.9.2019, but upon being asked by this Court he has informed that no formal application regarding apprising the Trial Court about passing of order dated 9.9.2019 by this Court was filed and it was just orally conveyed to the Trial Court.
9. Without entering in the controversy as to whether the Trial Court was actually aware of passing of order dated 9.9.2019 when impugned order was passed or not, this Court deems appropriate to direct the Trial Court to consider the matter afresh after complying with directions issued by this Court on 9.9.2019. Accordingly, the petition is accepted and the impugned order dated 24.9.2019 passed by learned Additional Sessions Judge, Jalandhar is set aside. The Trial Court is directed to pass a speaking order while considering the framing of charges and to consider all such pleas as may be raised before it at the stage of considering the framing of charges.

26.11.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No