

CRM-M-44203 of 2015

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

CRM-M-44203 of 2015
Date of Decision: 12.02.2020

Rachna

...Petitioner

Versus

Asha @ Kallo and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Ravi Malik, Advocate,
for Mr. Sanjeev Kr. Panwar, Advocate, for the petitioner.
Mr. J.S. Hooda, Advocate, for the respondents.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., complainant has laid challenge to order dated 07.02.2015 (Annexure P-1), whereby Sessions Court remanded the case to trial Court for holding an inquiry under Section 244 Cr.P.C.

Briefly, a complaint was filed against the respondents by the petitioner under Sections 323, 307, 506, 120-B IPC. Learned Magistrate, after recording preliminary evidence and finding a *prima facie* case against accused for their trial under Section 307 IPC, committed the case to the Sessions Court vide order dated 12.11.2014. The Sessions Court instead of holding trial against the respondents, setting aside the aforesaid committal order of the learned Magistrate, remanded the case with direction to re-decide the nature of offence committed by the respondents, observing that accused were liable to be permitted to cross-examine the complainant's

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witnesses in pre-charge evidence.

Having given thoughtful consideration to the rival submissions, this Court finds the instant petition merits acceptance for the reasons to follow.

Sessions Court has illegally observed that learned Magistrate, before committing the case to it, was required to proceed further for recording pre-charge evidence and give an opportunity to the petitioner to cross-examine witnesses of the complainant, inasmuch as Section 244 Cr.P.C. does not give an absolute right to the accused to cross-examine prosecution witnesses. However, Magistrate in his discretion can permit the cross-examination of the witnesses examined by the complainant in a warrant case for his own satisfaction and inquiry. Reference can be had to ***R.K. Joshi and another v. State of Haryana and another***, 2007(2) R.C.R. (Criminal) 47 (P&H).

In view of discussion above, impugned order of the Sessions Court is set aside with direction to it to proceed further with the trial and decide on its own as to whether respondents were liable to be charge-sheeted under Section 307 IPC.

Disposed of.

February 12, 2020
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No