

110

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

**CRM-M-28656-2020 (O&M)
Date of Decision: 18.09.2020**

Siddharth Soni and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Vikas Behl, Senior Advocate, with
Mr. Nikhil Sabharwal, Advocate,
for the petitioners.

SUDIP AHLUWALIA, J. (ORAL)

This is petition filed under Section 482 of the Cr.P.C. for quashing the FIR No.109 dated 16.09.2019 (Annexure P-1), under Sections 406, 498-A, 506 and 34 of the IPC, registered at Women Police Station, Gurgaon, District Gurugram, and all the subsequent proceedings arising therefrom, including the Final Form/Report dated 11.01.2020 (Annexure P-2) and orders dated 18.01.2020 (Annexures P-18 and P-19).

2. Contention of Ld. Counsel for the petitioners is that challan against petitioner No.1 was submitted on the basis of insufficient material and thereafter, the charges framed by the Ld. Trial Court, vide order dated 18.01.2020 (Annexure P-18), are unsustainable.

3. Notice of motion.

4. Mr. Anmol Malik, DAG, Haryana, to accept notice on behalf of

the State. Copy of the Paperbook be supplied to him.

5. Ld. Counsel for the petitioners draws attention of the Court to the fact that petitioner No.1, who happens to be the sole accused having charged on 18.01.2020, after submission of challan against him, has been erroneously shown to have committed the alleged offences under Sections 406, 498-A and 506 of the IPC, “*in furtherance of your common intention*”, which expression *ex-facie* is fallacious because there is no question of having common intention by any one person, when no one else along with him is charged to face trial. This submission of the petitioners certainly appears to be well founded.

6. Attention of the Court is thereafter drawn to the fact that the offence under Section 506 of the IPC, alleged to have been committed by the petitioner, is also untenable, since according to the FIR, there was no allegation to the effect that petitioner No.1 has given any kind of threat to the complainant, who is his wife. On the contrary, the threat was allegedly imputed to his father/parents, against whom no challan has been submitted.

7. The merit of the aforesaid submission is verified from the available material on record. It would appear that there was lack of application of mind by the Ld. Judicial Magistrate Ist Class, Gurugram, who mechanically framed the charges, firstly by unnecessarily imputing the element of “*in furtherance of common intention*” in the committing of the alleged offences, when, in fact, only one person was being charged, and secondly by adding the offence under Section 506 of the IPC against him, when from the available material, it appears that there is no statement imputed to him, specifically of threatening/causing alarm to the complainant Divya Vashisht.

8. The two errors noted above do require rectification, but otherwise

this Court finds no ground to altogether quash the present FIR and the Final Report, as prayed for.

9. The present petition is, therefore, disposed off, after being partially allowed. The expression “*in furtherance of your common intention*” is directed to be expunged from the Charge-sheet framed by the Ld. Trial Court, as also the charge pertaining to the offence under Section 506, IPC, be deleted.

10. The Ld. Court below is, therefore, directed to rectify/amend the charges in accordance with these observations and continue with the trial in accordance with law.

18.09.2020

Apurva

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No