

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.36960 of 2019

Date of decision:24.01.2020

Neelam

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ajit Kumar Sharma, Advocate
for the petitioner.

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JAISHREE THAKUR, J. (ORAL)

1. This is a petition that has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 31.08.2018 passed by the Additional Sessions Judge, Panipat whereby the revision petition filed by the petitioner against the impugned order dated 16.07.2015 passed by the Sub Divisional Judicial Magistrate, Samalkha, District Panipat dismissing the protest petition against the cancellation report of FIR No.349 dated 15.10.2008 under Sections 498A, 323, 506, 34 IPC has been dismissed.

2. In brief the facts are that the marriage of the petitioner was solemnized with respondent No.2, Narender on 16.02.1997 and a son namely Anant was born out of the wedlock on 16.02.2000, however, it is alleged that the petitioner was harassed by her husband and his family members. The petitioner had filed a complaint under the Protection of Women from Domestic Violence Act, 2005 (for short DV Act), which matter was ultimately compromised after they had given an assurance that

the petitioner would not be harassed. Consequently, the complaint was dismissed as withdrawn by an order dated 01.07.2007. Since the husband and his family members did not desist from harassing the petitioner, she was compelled to file aforesaid FIR dated 15.10.2008 under Sections 498A, 323, 506, 34 IPC at Police Station, Samalkha, Panipat, which was investigated and ultimately, a cancellation report dated 28.01.2009 was filed.

3. Aggrieved against the final report submitted under Section 173 Cr.P.C., a protest petition was filed on 06.04.2010, which was also subsequently dismissed by the Sub Divisional Judicial Magistrate, Samalkha and so was the revision petition preferred before the Sessions Judge, Panipat. Aggrieved against the said order, the instant petition under Section 482 Cr.P.C. has been filed.

4. Learned counsel appearing on behalf of the petitioner argues that the petitioner in her complaint had categorically submitted that she had been harassed on account of demand of dowry but the police in connivance with her husband and his family members had presented the cancellation report without fully going into the allegations made. It is also argued that on an earlier occasion, complaint under the DV Act had been dismissed as withdrawn on account of the fact that the matter was compromised and an assurance had been given by the husband and his family members not to harass the petitioner. It is further submitted that the husband of the petitioner had given her beatings on 30.04.2002 at about 10PM and she and her minor son had been thrown out of the matrimonial home, while also contending that she had also been subjected to beatings on 23.05.2004 prior to her husband going abroad. It is also submitted that in the month of

March, 2005, her husband had taken huge amount from the brother of the petitioner, however, all these details though furnished in the complaint had been ignored by the police at the time of presenting the cancellation report as well as by both the Courts below, while dismissing the protest petition.

5. I have heard learned counsel for the petitioner and have also perused the paper book. The Sub Divisional Judicial Magistrate, Samalkha had perused the oral evidence of CW1, CW2 and CW3 and came to the conclusion that the entire dispute revolved around the selling of the property by the husband without giving a share to the petitioner herein. Furthermore, the Court came to the conclusion that the complainant did not reveal any specific date and time regarding the demand of dowry and beatings. While noticing the discrepancies in her statement, the Courts below came to the conclusion that prima facie, the complainant was not able to prove that accused Narender had demanded dowry or had beaten the complainant and consequently, found no ground to allow the protest petition.

6. Moreover, a reading of the protest petition against the cancellation report itself does not give any details regarding harassment, demand of dowry etc. to warrant summoning of the respondents herein. The law is well settled that the Magistrate has to record his satisfaction before summoning an accused in a complaint, which has to be supported by satisfactory evidence and other material on record and reliance in this regard can be placed upon a judgment rendered *M/s. GHCL Employees Stock Option Trust Vs. M/s India Infoline Limited 2013 (2) RCR (Criminal) 519*. Learned counsel for the petitioner has not been able to point out any substantial evidence available in the protest petition to warrant interference

or any infirmity in both the orders so passed by the Courts below.

Consequently, the instant petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

January 24, 2020

Pankaj*

Whether speaking/reasoned Yes/No

Whether speaking/reasoned Yes/No