

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45354-2019 (O&M)

Date of decision: 29.01.2020

Rachpal Singh

....Petitioner

Versus

Sakshi Sharma @ Neha

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Umesh Kumar Kanwar, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of the order dated 04.01.2019 passed in complaint No.COMI-555/2018 CNR No.PBJL030177302018, titled as Rachpal Singh Vs. Karan and others, vide which the trial Court, while summoning accused No.1 to 3, refused to summon Sakshi Sharma @ Neha, who was arrayed as accused No.4 as well as the order dated 31.08.2019 passed by the revisional Court, dismissing the revision petition filed by the petitioner.

Brief facts of the case are that the petitioner-complainant has filed the aforesaid complaint with the allegations that he is having a tent house and accused No.1 & 2, parents of accused No.4 Sakshi Sharma @ Neha, had asked for financial help for construction of their house and he spent Rs.15.00 lacs. Thereafter, the accused resiled from the agreement and

he had filed a civil suit, in which a compromise was effected between the parties. It is further stated that on 03.05.2018, accused No.1 had thrown paint on the tent material, causing loss of Rs.10,000/-. When the complainant told this incident to accused No.2, all the accused gave abuses to him and accused No.3 gave push and fist blows and thereafter, all the accused persons forcibly entered shop of the complainant and started throwing the material lying on the spot. Thereafter, the witnesses came and rescued him.

The complainant, in his preliminary evidence, recorded his statement as CW1 and reiterated the version given in the complaint. He produced Ex.C1, a complaint given to the police. CW2 Ashwani Kumar and CW3 Ramandeep Aggarwal, eyewitnesses to the incident, also supported version of the complainant. Thereafter, the trial Court, vide impugned order dated 04.01.2019, summoned accused No.1 to 3 namely Karan, Parveen Sharma and Shavi, however, finding that no prima facie case is made out against accused No.4-respondent Sakshi Sharma @ Neha, dismissed the complaint qua her.

The petitioner preferred a revision petition before the Court of Sessions, challenging the order of the trial Court, which was also dismissed vide impugned order dated 31.08.2019. The operative part of the order reads as under: -

“I have considered the rival submissions.

Case of the revisionist is that there was sufficient evidence against the respondent and she along with other accused laid a threat that this time they will not spare the complainant. She forcibly entered into shop and threw the tent material lying in

the shop. But, learned lower court did not summon her for the offence alongwith other co-accused persons. It was prayed that revision petition be accepted and respondent may ordered to be summoned.

While on the other hand, learned counsel for the respondent submitted that there is a landlord tenant dispute. There is no evidence against the respondent for the offence under Section 327, 427 or 506 IPC. Respondent is unmarried daughter of the landlord. Just to put the pressure and for avoiding ejectment, complainant seeks to falsely involve the respondent, an unmarried daughter of landlord.

I have considered the rival contentions.

It is not disputed that there is landlord-tenant dispute between the parties. It is also not disputed that respondent is unmarried daughter of the complainant. No specific act is attributed to the respondent. Mere boastful claims, if any, does not amount to criminal intimidation. Even when three male members of the family were there, involvement of unmarried daughter, as alleged by the complainant, is not prima-facie believable. There was no sufficient evidence against the respondent and learned Magistrate has rightly dismissed the complaint. There is no ground for interference in the impugned order. The complaint is rightly dismissed. Resultantly, the revision is dismissed. Parties are directed to appear before the Ld. Trial Court on the date fixed. Record of trial court be sent

back along with copy of this order. File of this Court be consigned to the record room.”

Learned counsel for the petitioner submits that in the complaint, it is stated that accused No.4-respondent Sakshi Sharma @ Neha was also present at the shop, when other accused started throwing the tent material lying in the shop. It is further submitted that this fact is proved from the statements of CW1-complainant and CW-2 & CW3, eye-witnesses.

After hearing learned counsel for the petitioner, I find no ground to interfere in the well reasoned findings recorded by both the Courts below.

The Courts below have recorded a finding that accused No.4 is an unmarried girl and she was not a party to the civil litigation, as it is case of the complainant himself that he has filed a civil suit for permanent injunction against accused No.1 and later on, compromised the case. Accused No.1 to 3 are the parents and brother of accused No.4-respondent Sakshi Sharma @ Neha.

A perusal of the complaint shows that no overact is attributed towards accused No.4-respondent Sakshi Sharma @ Neha, except that she was present in the shop.

Therefore, finding no reason to differ with the findings recorded by both the Courts below, present petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

29.01.2020
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No