

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

(109)

CRM-M-9893-2021 (O&M)

Date of decision : 03.03.2021

Prashant Bahl

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. D. Hasija, Advocate
for the petitioner.

...

SUVIR SEHGAL, J.

The hearing of this petition has been taken up through video conferencing due to COVID-19 Pandemic.

Through the present petition filed under Section 482 of the Code of Criminal Procedure, 1973, the petitioner seeks setting aside of the order dated 14.08.2020 (Annexure P-1) passed by the learned Additional Sessions Judge, Faridabad in Criminal Revision CIS No. CRR/512/2019 and seeks discharge of the petitioner from the trial Court case titled as "State Versus Prashant Bahl" arising out of FIR No.102 dated 26.10.2018 under Section 354-A of Indian Penal Code, 1860, registered at Women Police Station, Sector 16-A, Faridabad, Haryana, pending in the Court of JMIC, Faridabad.

As per the version of the prosecution, an FIR was registered on the complaint of a lady (named withheld, hereinafter referred to as "the victim") on the allegation that on 25.10.2018 at about 8.30 P.M., when she

was talking on the phone, Prashant Bahl (present petitioner-accused) came in his balcony, started laughing at her and made indecent gestures. When the victim confronted him, he denied having done anything. In the meanwhile, her in-laws came on the spot and the accused-petitioner started uttering unnecessary words. The father of the accused also arrived there and a quarrel took place between both the parties. She alleged that on earlier occasions also, the accused-petitioner had made indecent gestures towards her and used foul language and he had been warned on many occasions, but he did not stop the objectionable activity. The statement of the victim was recorded under Section 164 Cr.P.C., wherein she alleged that the accused-petitioner had made an obscene signal towards her. Final report under Section 173 Cr.P.C. was presented. After hearing and examining the material placed before it, the trial Court formed a prima facie opinion that offence punishable Section 354-A IPC is made out and charge against the accused was framed on 10.07.2019 to the following effect:-

“That on 25.10.2018, at about 8.30 P.M. in the area of Police Station Woman, you the above named accused made sexual advances involving unwelcome and explicit sexual overtures by standing naked repeatedly before the complainant, and thus you thereby committed an offence punishable under Section 354-A of Indian Penal Code, which is within my cognizance.”

The accused pleaded not guilty and claimed trial. The accused-petitioner filed a Revision under Section 397 of the Code of Criminal

Procedure before the learned Additional Sessions Judge, challenging the charge-sheet dated 10.07.2019 (Annexure P-5). The Revisional Court after summoning the record and examining the material came to the conclusion that the words “by standing naked repeatedly before the complainant” seem to have been inserted in the impugned charge-sheet without there being any material to this effect in the final report and other documents. Learned Additional Sessions Judge, accordingly set aside the charge-sheet, vide impugned order dated 14.08.2020 (Annexure P-1) and directed the trial Court to reconsider the framing of charge after giving due opportunity to both the parties to address their arguments. This order has been challenged by the petitioner in the instant petition.

Counsel for the petitioner has urged that the allegations leveled against the petitioner are totally false and that the petitioner did not commit any offence as the essential ingredients of Section 354-A IPC are missing. He submits that the FIR is the result of some property dispute between the parties and the learned Revisional Court erred in directing the trial Court to reconsider the point of framing of the charge.

I have considered the arguments advanced by the counsel for the petitioner and perused the paper book with his able assistance.

The settled legal position is that at the time of framing of the charge, the trial Court is not required to meticulously examine the allegations and the evidence in support thereof but is required to see if on the basis of the allegations leveled in the FIR or the complaint and the statement of the victim recorded under Section 164 of the Code and other

material collected, a prima facie case is made out against the accused. At the initial stage of framing of the charge, the truth or veracity and the effect of the evidence which the prosecution proposes to adduce are not to be judged. The Court has to consider only the sufficiency of ground for proceeding against the accused and not whether material on record are sufficient or adequate for conviction.

By the impugned order, the learned Sessions Judge has set aside the impugned order and charge-sheet dated 10.07.2019 and directed the trial Court to rehear and reconsider framing of the point of charge after providing proper opportunity to both the parties to address their arguments on the framing of the charge and pass a fresh order. Since framing of the charge has to be considered afresh by the trial Court, this Court refrains itself from making any comment on the allegations leveled in the FIR and on the material collected by the investigating agency. There is no illegality or impropriety in the impugned order passed by the learned Additional Sessions Judge. The petition is accordingly dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

03.03.2021
Pardeep

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No