

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

128

**CRM-M-35885-2021
Decided on : 02.09.2021**

Vicky alias Madan Lal and others

. . . Petitioner(s)

Versus

Manjeet Kaur

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Vipul Joshi, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

By way of the present petition filed under Section 482 Cr.P.C., the petitioners are seeking quashing/setting aside of the order dated 03.03.2021 (Annexure P-4), passed by the learned Revisional Court, Kurukshetra, Haryana, in CRR No. 53 of 2019, titled as, “Manjeet Kaur V. Vicky and others”, vide which the order dated 05.03.2019 (Annexure P-2), passed by learned Judicial Magistrate 1st Class, Pehowa (for brevity, 'JMIC'), in Criminal Complaint No. 2 of 2017, dated 11.01.2017, titled as, “Manjeet Kaur v. Vicky and others”, was set-aside and they were ordered to be summoned to face trial in the aforementioned criminal case for offences punishable under Sections 323, 354, 452, 504, 506 of IPC.

The case as set-up by respondent – complainant may be noticed thus:

On the intervening night of 19th/20th September, 2016, at about 11:00 P.M., when the complainant was sitting in the verandah of her house, awaiting the return of some of her family members, who had gone to village Naisy, all the accused persons including the petitioners forcibly entered her

house. Petitioner No.2 closed the main gate of the house. Once inside, all the accused – petitioners indulged in inappropriate behaviour and violated her modesty. The complainant resisted and raised hue & cry, attracting her other family members to the spot, who had been sleeping inside the house. They rushed to her rescue, however, the accused fled from the spot, but not before inflicting injuries on her person and tearing off her clothes. Soon thereafter, a call was made to the Mahila Helpline number at 1091. The police reached the spot and recorded the statement of the complainant. Since the complainant had received injuries in the aforementioned occurrence, she was immediately taken to Civil Hospital, Ismailabad from where she was referred to LNJP Hospital, Kurukshetra. The police on receipt of ruqa arrived at the hospital to record the statement of the complainant, however, the same could not be recorded, as there was no lady police officer accompanying them. On a phone call made to the SHO, Police Station Ismailabad, a lady police official was dispatched to the hospital, who then recorded the statement of the complainant. Since the complainant felt that her statement with respect to the occurrence in question had not been correctly and fully recorded by the police, she filed a written complaint on 24.09.2016 to SHO, Women's Cell, Kurukshetra. Thereafter, though the police recorded the statements of the witnesses, however, still no action was initiated against the accused persons. As per the complainant on 29th September, 2016, the DSP, Shahabad called her to his office and tried to pressurize her to withdraw her complaint, as the accused persons were influential persons and closely associated with the Gram Panchayat as well as well as a political outfit. It was in the above background, the complainant filed the criminal complaint in question.

The learned counsel for the petitioners has vehemently argued that the impugned order vide which a detailed and well reasoned order passed

by the JMIC, Pehowa, was set aside, was erroneous, inasmuch as, the revisional Court failed to appreciate that there was no corroborative evidence on record for summoning the petitioners to face trial. Learned counsel has submitted that the delay of 3½ months in the institution of the complaint in question left no manner of doubt that a fabricated and false case had been brought forth by the complainant. In support of his submissions, learned counsel has invited the attention of this Court to the order passed by JMIC, Pehowa on 05.03.2019, wherein, it observed that the first version of the complainant came up before the police on 24.09.2016 i.e. after four days of the alleged occurrence and there was nothing on record to support that the complainant had been declared medically unfit to get her statement recorded earlier. Learned counsel further submitted that the JMIC, Pehowa, rightly observed that the complainant had given her complaint (Ex. C2) in a typed format, which clearly indicated that she had utilized the said time to frame the accused in the crime in question. Learned counsel further submitted that though serious allegations had been levelled against the petitioners – accused, of inappropriate behaviour and of outraging the modesty of the complainant, as a result of which, she had received injuries, but there were no medical evidence to corroborate the said fact, much less, any report of the attending Doctor on the MLR of the complainant *qua* the occurrence or about the inappropriate behaviour indulged in by the petitioners, which yet again proved their false implication in the case in hand. Learned counsel further submitted that it was a matter of record that a case FIR No. 140, dated 20.09.2016, was got registered against the family of the respondent – complainant *qua* an occurrence, which had taken place on 19.09.2016 and it was in this background, the complainant came up with the complaint (Ex.C2) in question, as was also rightly observed by the trial Court.

Learned counsel therefore, submitted that the revisional Court fell in grave error by setting aside the well reasoned order of the trial Court, since it had been passed after appreciating the preliminary evidence led before it.

I have heard learned counsel for the petitioners and perused the material on record as well as the impugned order.

The contention made by the learned counsel for the petitioners that the complaint (Ex.C2) had been instituted against the petitioners with an ulterior motive and to spite them on account of an FIR dated 20.09.2016, having been registered against the complainant, deserves to be rejected outrightly.

Coming to the first contention of the petitioners *qua* the alleged delay in informing the police about the alleged occurrence, this Court finds it extremely strange and shocking as to how it could be said that there was a delay in informing the police. The occurrence allegedly took place at about 11/11:30 P.M. on 19.09.2016 and within no time of the occurrence, the Mahila Helpline had been telephonically informed, as a result of which, they arrived at the spot soon thereafter. The aforementioned fact finds corroboration not only from the deposition of the complainant when she stepped into the witness-box as CW-1 before the trial Court at the time of the recording of her preliminary evidence, but also from the fact that she was taken to the Civil Hospital at Ismailabad, from where she was referred to LNJP Hospital, Kurukshetra on the same night. The factum of the complainant having been medico legally examined at the said hospital stands reflected in her MLR (Ex.C1). As per the MLR (Ex.C1), she was medico legally examined at 2:00 A.M. on 20th September, 2016. Still further, the very fact that the police did arrive at the hospital to record the statement of the complainant on the same day and soon after the alleged occurrence and that too on the basis of a ruqa sent by the

hospital demolishes the submissions made by the learned counsel for the petitioners *qua* the delay in the lodging of the complaint and puts a big question mark on the wisdom of the trial Court to make observations contrary to the material on record. Still further, it is a matter of record that a lady police official, Head Constable Parveen on being informed arrived at the hospital to get the statement of the complainant recorded. This Court would, however, refrain from commenting on the allegations levelled by the complainant that her statement was not properly and correctly recorded by the police at the first instance on 20.09.2016 and for which she was reprimanded by the DSP concerned for mustering the courage to report against the accused, who were well connected.

Coming to the next contention of the learned counsel for the petitioners that there was absence of any medical evidence with respect to the injuries received by the complainant in the alleged occurrence, much less, any report of the Doctor as to how and under what circumstances, the complainant had been admitted in the hospital, too is devoid of merit. As per MLR (Ex.C-1) 06 injuries stand noticed by the doctor including injury No.2, which is a *“Multiple linear red abrasion of sizes of 5.8 x 0.1 cm. on chest”* and still further, the Doctor has categorically noted in the MLR that it was *“alleged history of assault at Vill. Thaska Miraji KKR”*. This Court, therefore, finds it extremely strange as to how it could be argued by the learned counsel and also observed by the trial Court that there were no injuries received by the complainant, much less, any history given by the complainant to the Doctor with respect to the occurrence in question. It may also be relevant to notice that besides the complainant, another eye-witness i.e. CW-2 Sukhdev Singh also deposed *qua* the occurrence in question on the same lines, as deposed by the complainant in her preliminary evidence before the JMIC.

It cannot be said that the statements of both witnesses i.e. CW-1 complainant – Manjeet Kaur and CW-2 Sukhdev Singh an eye-witness, which were recorded before the trial Court at the time of preliminary evidence coupled with the MLR of the complainant, did not *prima facie*, substantiate the allegations levelled in the impugned complaint. It may be observed that at the stage of summoning the accused, the merits and demerits of the case cannot be delved into nor can the Court examine the defense of the accused. The Court is to just arrive at a *prima facie* satisfaction *qua* the commission of a cognizable offence. The impugned order does not in any way suffer from any illegality and rather comes across as a well reasoned one.

In the above facts and circumstances, this Court is not inclined to quash the order dated 03.03.2021 (Annexure P-4), passed by the learned Revisional Court, Kurukshetra, Haryana by invoking its inherent power under Section 482 Cr.P.C.

Petition stands dismissed accordingly. However, anything observed hereinabove shall not be taken to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

September 02, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*