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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42868-2021

Date of Decision: October 12, 2021

Omkar Singh and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.G.S.Brar, Advocate
for the petitioners.

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RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition has been filed under Section 482 Cr.P.C. praying for quashing of the impugned order dated 15.09.2021 passed by learned Special Judge-cum-ASJ, Rohtak, vide which the order dated 13.02.2020 passed by the learned Judicial Magistrate First Class, Rohtak, has been set aside.

As per the facts of the case succinct, the present FIR was registered on the statement of respondent No.2-Harsimran Kaur d/o Amarjeet Singh, wherein it was alleged that she married to Omkar Singh. The marriage was performed at Gazania Palace, Rohtak with pomp and show. Soon after the marriage, the petitioners started harassing the complainant for the demand of dowry. She was continuously being taunted and cruelty was being caused to her. On the basis of the allegations, the

present FIR was registered and the prayer was made to take the legal action against the culprits. The statement of the complainant was recorded under Section 164 Cr.P.C. on 11.07.2018 wherein the allegations of attempt to rape were also made. The investigation was complete and the challan was submitted under Section 498-A/406/506/34 IPC. Sections 376/511 IPC were dropped.

Learned Judicial Magistrate First Class, Rohtak, took cognizance of the challan filed and vide its order dated 13.02.2020, came to the conclusion that the allegations do not disclose prima facie offence under Sections 498-A/406/506 IPC and thus, all the accused were discharged. Aggrieved by the same, the complainant preferred a revision under Sections 397, 398 and 401 Cr.P.C. praying for setting aside the impugned order dated 13.02.2020. Learned Special Judge-cum-Additional Sessions Judge, Rohtak, by passing the impugned order dated 15.09.2021 set aside the impugned order dated 13.02.2020 passed by the learned Judicial Magistrate First Class, Rohtak, and directed the parties to appear before the learned trial Court and the learned trial Court was directed to pass an appropriate order in the light of the observations made. Aggrieved by the same, the present petition has been preferred by the petitioners.

Learned counsel for the petitioners has vehemently argued that the order passed by the learned Judicial Magistrate First Class, Rohtak, was a reasoned order. He argued that the petitioners were falsely implicated in the FIR. He submitted that the marriage in question took place on 24.09.2017 whereas the present FIR was registered on 06.07.2018 only in order to harass the petitioners. He submitted that though the allegations

investigation, the same were dropped and the challan was filed only under Sections 406/498-A/506/34 IPC. He submitted that the learned Judicial Magistrate First Class, Rohtak, has appreciated the allegations in detail and having found no substance in the same, had voluntarily discharged all the three accused. He submits that the learned Additional Sessions Judge has illegally set aside the order dated 13.02.2020 passed by the Judicial Magistrate First Class, Rohtak. He submitted that the reliance placed by the learned Additional Sessions Judge on the various judicial precedents was not made out as the judgements relied upon are distinguishable on the facts and circumstances of the case.

I have heard learned counsel for the petitioners and perused the record.

The present FIR has been registered on the specific allegations of cruelty and harassment caused by the petitioners. After thorough investigation, the challan was presented. Learned Additional Sessions Judge while appreciating the order passed by the learned Judicial Magistrate First Class, Rohtak, has given a detailed finding wherein it has been observed that the allegations in the FIR and thereafter the statement recorded under Section 164 Cr.P.C. in addition to the other material on record prima facie proved sufficient evidence on record to raise the suspicion of the commission of offence.

It is apposite to mention that the learned trial Court is to look into the material on record to see whether there is a prima facie case made out against the accused or not. On the basis of the material on record, there is no gain saying that the material available on record is sufficient material

Orissa vs Debendra Nath Padhi, Appeal (Crl.) 497 decided on 29.11.2004 (SC), has specifically laid down that the accused has no right to produce the material in his defence at the time of framing of charge. Thus, the reliance placed by the Sessions Court suffers from no illegality in coming to the conclusion that there is a prima facie case against the petitioners and thus, the view taken by the learned Judicial Magistrate First Class in discharging the petitioners was unsustainable in the eyes of law.

In the overall facts and circumstances, this Court finds no infirmity in the conclusion drawn by the learned Additional Sessions Judge. The petition being devoid of any merit is, hereby, dismissed.

October 12, 2021
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |