

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

CRR-1777-2021(O&M)

Date of Decision: December 23, 2021

Mahesh Kumar and another
Versus

.....Petitioners

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.S.K.Panwar, Advocate for the petitioners.

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RAJESH BHARDWAJ, J.

The petitioners have approached this Court by way of filing this revision petition impugning the order dated 19.07.2021 wherein the trial Court has framed the charges against the petitioners.

The factual matrix of the case are that the present FIR was lodged by complainant -Usha against the accused Bhagirath son of Budh Singh, Indra W/o Bhagirath and Mahesh S/o Bhagirath. It was alleged that the complainant is resident of village Mitrol, Tehsil Hodel, District Palwal and her marriage took place about ten years ago with Hari Krishan S/o Bhagirath. Her father-in-law Bhagirath was having an evil eye upon her and on 19.05.2019 at about 2.30 p.m., when she was alone at home, he entered into her room and forcibly established the physical relations with her. When she complained about the same before her mother-in-law and brother-in-law they gave her beatings and asked her to remain silent. Thereafter, when her in-laws were not at home, she got the opportunity to go to the police and lodged the FIR. Resultantly, the present FIR was lodged and request was made to take action against the culprits.

The investigation commenced and the challan was presented

against the accused Indira W/o Bhagriath and Mahesh S/o Bhagirath under Sections 323, 506 and 120-B IPC on 12.10.2019. Thereafter after investigation, the supplementary challan was prepared on 01.02.2020 and filed against the accused Bhagirath. On the basis of the challan submitted, the trial Court framed the charges on 19.07.2021. Aggrieved by the same, the petitioners have approached this Court for setting aside the charge framed.

Counsel for the petitioners contends that FIR was registered under Sections 323, 376, 506 and 120-B IPC, however, as no evidence qua the allegations of sexual assault was found during the investigation hence, the challan was presented only under Sections 323, 506 and 120-B IPC. Learned trial Court framed the charges against the petitioners vide its order dated 19.07.2021. Learned counsel contends that the trial Court failed to appreciate the evidence on record. He contends that neither the complainant nor the prosecuting agency disclosed the date, time and place regarding the allegations qua the petitioners. This shows that the petitioners are falsely implicated. He contends that there was no independent witness of the occurrence and hence, the trial Court failed to appreciate the evidence on record and thus has drawn a wrong conclusion in framing the charge against the petitioners. He contends that the impugned order deserves to be set aside and petitioners be discharged.

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

The FIR in question has been got registered by the prosecutrix herself. There were categorical allegations regarding beating and sexual assault to the complainant. The investigation was thoroughly conducted and

investigating agency came to the conclusion that no material could be found regarding the allegations of sexual assault qua the petitioners. However, there was sufficient material for filing the challan under the rest of the offences. Accordingly, the challan was presented against the petitioners under Sections 323, 506 and 120-B IPC. Learned trial Court has perused the record and summoned the accused for framing the charge. In view of the material on record, the petitioners are charged under Sections 323, 506 and 120-B IPC. There is no gainsaying that at the time of framing of charge, the trial Court is not supposed to weigh the statements but has to draw the conclusion whether there is a prima facie case made out on the basis of the material produced on record. In view of the challan presented which included the oral and documentary evidence, the trial Court had found a prima facie case against the accused persons and accordingly the petitioners were charge-sheeted for those offences. I am supported by the Hon'ble Supreme Court in Dr.Nallapareddy Sridhar Reddy vs State of Andhra Pradesh and others, (2020) 12 Supreme Court Cases 467 wherein it has been held that at the time of framing of charges the Court has to determine that there is sufficient material on record for the commencement of trial.

Weighing the facts and circumstances of the present case on the anvil of the law settled, I decline to accept the contentions raised by learned counsel for the petitioners. Resultantly, I find no illegality in the conclusion arrived at by the trial Court.

Finding no merit in the petition, the same is hereby dismissed.

December 23, 2021
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(RAJESH BHARDWAJ)
JUDGE