

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33341-2018
Date of Decision: 29.03.2022

Suresh Kumar

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mukesh Yadav, Advocate, for the petitioner.

Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

Mr. V.D. Sharma, Advocate, for respondent No.2.

JASGURPREET SINGH PURI, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the impugned order dated 13.04.2018 passed by the learned JMIC, Mohindergarh whereby the application moved by the prosecution under Section 216 of the Code of Criminal Procedure has been allowed and charges under Section 452 IPC have been framed and also order dated 18.07.2018 passed by the learned Additional Sessions Judge, Narnaul whereby the revision petition has been dismissed.

Learned counsel for the petitioner has submitted that in the present case FIR was lodged against two accused and one was found innocent and the petitioner was charge-sheeted. He further submitted that so far as the petitioner Suresh Kumar is concerned, the charges were framed

under Sections 323 and 325 IPC. However, on an application which has been moved by the prosecution under Section 216 Cr.P.C the charges under Section 452 IPC have also been framed against the petitioner. He further submitted that there was no occasion for the learned trial Court to have allowed the application under Section 216 Cr.P.C because there was no sufficient material available with the Court to frame the charges under Section 452 IPC in addition to Sections 323 and 325 IPC and, therefore, both the impugned orders are liable to be set aside.

On the other hand, Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana as well as Mr. V.D. Sharma, learned counsel appearing for respondent No.2 have submitted that it is a case where accused had trespassed into the house of the complainant but charges under Section 452 IPC were not framed initially and thereafter, on moving an application under Section 216 Cr.P.C the charge has now been framed in accordance with law because trespass was apparent on the face of it. They further submitted that the case is now fixed for defence evidence and at this stage, otherwise also the petitioner has no ground to seek intervention by this Court. They further submitted that both the Courts below have passed correct and proper orders and there is no ground available with the petitioner seeking intervention by this Court in exercise of powers under Section 482 of the Code of Criminal Procedure.

I have heard the learned counsel for the parties.

Initially, the petitioner was charged under Sections 323 and 325 IPC and thereafter, the prosecution moved an application under Section 216 Cr.P.C which was allowed by the learned JMIC, Mohindergarh on 13.04.2018. While dealing with the application the learned Magistrate

observed that the complainant has specifically deposed that she was inside the house and the accused had beaten her and even as per the application Ex.PW2/A which was given by the complainant it was mentioned that the complainant was in her house and then the accused persons trespassed into the house of the complainant but charges under Section 452 IPC were not framed and the charges under Sections 323 and 325 IPC were framed. Therefore, there was sufficient evidence available on the record to charge the petitioner under Section 452 IPC as well. The petitioner filed a revision petition before the learned Additional Sessions Judge, Narnaul assailing the aforesaid order passed by the learned JMIC, Mohindergarh in which the learned Additional Sessions Judge observed that the revisional jurisdiction has a limited scope and satisfaction recorded by the learned Magistrate cannot be interfered without any cogent and strong reason. Apart from the same, the learned Additional Sessions Judge also discussed the merits of the case and observed that a close scrutiny of the initial complaint made by the complainant reveals that the complainant pleaded that on the fateful day she was taking rest in her room, then Suresh Kumar (petitioner) and Parveen Kumar suddenly appeared in the said room and Suresh Kumar (petitioner) asked the complainant that she must get her land transferred in his name and when the complainant refused, Suresh Kumar (petitioner) had beaten up the complainant with fist blows and Parveen Kumar was having one gun in his hand and with the aid of the knob of the said gun, he inflicted fist blows on her. The story of the complainant did not end there and the aforesaid recitals in the complaint are enough to hold that the learned trial Court has rightly framed the charges under Section 452 IPC.

The argument raised by the learned counsel for the petitioner

that there was no material available with the learned trial Court to have framed the charge under Section 452 IPC is devoid of any merit. The initial complaint of the complainant itself reflects that she had stated that she was taking rest in her room and two persons had come and beaten her up and, therefore, on the face of it charges under Section 452 IPC ought to have been framed. The learned trial Court has rightly exercised its jurisdiction in allowing the application under Section 216 Cr.P.C and framed charges under Section 452 IPC. Apart from the same, as per the learned counsel for the parties the matter is now fixed for defence evidence and no ground is available with the petitioner to seek interference by this Court.

There is no illegality or perversity in the orders passed by the learned JMIC, Mohindergarh as well as the revisional Court/

Consequently, finding no merit in the present petition, the same is hereby dismissed.

29.03.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No