

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(114)

CRR-1918-2022(O&M)
Date of Decision: 15.09.2022

Manu Bali & others

--Petitioners

Versus

State of Haryana & another

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Rajesh Gupta, Advocate for the petitioners.

Mr. B.S. Virk, D.A.G., Haryana.

Mr. R.N. Lohan, Advocate for respondent no.2.

RAJESH BHARDWAJ.J (Oral)

Petitioners have approached this Court by way of filing the present petition impugning the order dated 7.7.2022, whereby they have been charge sheeted for the commission of offence under sections 498A, 406, 323, 354(A)(1)(i), 313 IPC read with section 34 IPC by the learned Addl. Sessions Judge-cum-Judge, Special Court for Heinous Crime against Women, Hisar.

As per facts of the case, the FIR in question was lodged by complainant/respondent no.2 against the petitioners, who are her husband, Devar and mother-in-law. It was alleged that by respondent no.2 that she was married with petitioner no.1 Manu Bali on 5.7.2012 in Kurukshetra. Her parents gave sufficient dowry in marriage as per their capacity. However, after the marriage, her in-laws started taunting her for bringing insufficient dowry. They stated that her father had spent nothing in the marriage and the articles given in the marriage were sub-standard. She was taunted for being the daughter of a poor family. She was being harassed for

the demand of dowry and also beaten by the accused persons. 2-3 times Panchayats were convened to explore the possibility of amicable settlement, however, her in-laws remained adamant on the demand of Rs.20 lakh and a car for the settlement. It was also alleged that the accused persons used to beat the complainant due to which she suffered an abortion in the year 2013. She was admitted in Suri Hospital, Ladwa, where her abortion was performed. The harassment and cruelty went unabated and hence the FIR in question was lodged.

After registration of the FIR, investigation commenced and the challan was presented before the court of competent jurisdiction. Thereafter, learned Trial Court framed the charges vide impugned order dated 7.7.2022.

Learned counsel for the petitioners has primarily assailed the charges framed under section 313 Cr.P.C. He submits that there was no material available on record for framing the charge under section 313 IPC read with section 34 IPC against the petitioners. He submits that from the bare reading of the allegations in the FIR the same are general in nature and no specific allegations are there regarding the alleged abortion against the petitioners. It is submitted that challan has been presented wherein Dr. Ajay and Dr. Geeta have been cited as witnesses, however, no record regarding the alleged abortion has been submitted by these witnesses. Counsel submits that statement of the prosecutrix under section 164 Cr.P.C was recorded wherein there is no whisper regarding the offence of alleged abortion got conducted by the petitioners. He submits that no corroborating evidence has been adduced by the investigating agency regarding the

offence of rape. He submits that Dr. Ajay, who had conducted the ultrasound of the complainant has given no ultrasound report. On the other hand, Dr. Geeta from Suri Hospital has not produced any record regarding the abortion. Counsel submits that thus there are only allegations pertaining to offence of rape but there is no material to substantiate the same. To buttress his arguments, counsel has relied upon the judicial precedents of Hon'ble Supreme Court in ***Vikramjit Kakati v. The State of Assam, Criminal Appeal No(s).1140 of 2022 decided on 4.8.2022, Ms. P1xxx vs. State of Uttarakhand & Anr., Criminal Appeal No.903 of 2022 decided on 16.6.2022*** and ***Tarak Dash Mukharjee & Ors. Vs. State of Uttar Pradesh & Ors, Criminal Appeal No.1400 of 2022 decided on 23.8.2022***

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

The relationship between the petitioners and respondent no.2 is not under dispute. The complainant was married with petitioner no.1 in the year 2012. Thereafter matrimonial discord took place between husband and wife and finally the same led to the registration of the FIR in question. The matter was investigated and challan under section 173 Cr.P.C was presented before the court of competent jurisdiction. Thereafter learned Trial Court appreciated the record produced by the prosecution and on the basis of the same the impugned charge sheet was prepared vide order dated 7.7.2022.

It is apposite to mention here that the complainant/victim has given an exhaustive account of her harassment in the matrimonial home after her marriage with petitioner no.1. She has levelled allegations pertaining to beatings given by the petitioners to her. Her statement under section 164 Cr.P.C was recorded wherein she has clearly deposed about the

incident of 23.5.2020 when her husband and brother-in-law (Devar) gave fist blows on her waist and stomach and her son was also beaten. The doctors who performed the ultrasound and abortion etc. have also been cited as witnesses. It is apt to consider that the impugned order dated 7.7.2022 pertains to framing of charges against the petitioners. As per the law settled the Trial Court is to appreciate the material produced by the prosecution for forming an opinion whether any prima facie case is made out against the petitioners or not but the court is not supposed to weigh the evidence at this stage for forming any opinion whether the material produced is sufficient enough for conviction of the accused. The material produced by the prosecution in the case in hand would show a prima facie case against the petitioners for framing the charges. In all its humility there is no dispute regarding the law cited by learned counsel for the petitioners, however, in the facts and circumstances of the case, the same are justifiable. The accused have a right to rebut the defence in the due course of trial. However, at the stage of framing of charge the Trial Court is to see only whether a prima facie case is made out against the accused or not.

In view of the attending circumstances, this Court does not find any infirmity in the impugned charge sheet and order dated 7.7.2022 passed by the learned Trial Court. The petition being devoid of any merits, is hereby, dismissed. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

15.09.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No