

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

CRM-M-45417-2022 (O&M)
Date of Decision: 29.10.2022

Amarjeet Kaur

..... Petitioner

Versus

Pinni @ Anil Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Rajesh Bhardwaj, J.

CRM-39447-2022

Annexures A-1 to A-3 are taken on record.

Application stands allowed.

CRM-M-45417-2022

This petition has been filed under Section 482 Cr.P.C. praying for quashing of order dated 01.08.2022 passed by the learned Additional Sessions Judge, Yamuna Nagar at Jagadhri, whereby, the revision petition bearing No.CIS NO.CRR-180-2017 filed by the petitioner against the order dated 18.09.2017 passed by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, vide which complaint bearing No.CIS No.COMI-99 of 2015 dated 14.5.2015 under Sections 323, 354, 354-A, 354-B, 354-D, 506, 34 IPC filed by the petitioner had been dismissed.

Learned counsel for the petitioner has contended that the petitioner-complainant earlier filed a criminal case No.139, under Sections 323, 354, 452, 506, 34 IPC against the respondents alleging therein that on 10.7.2017, the respondents grabbed the property of the petitioner and thrown out her family from the property by assaulting her and her family.

Civil as well as criminal proceedings were initiated against the accused-

persons. He submits that accused-respondents were acquitted in criminal case No.139 vide order dated 18.7.2014 and appeal against acquittal is pending before this Court. In order to pressurize the complainant to withdraw her complaint, the respondents threatened her and outraged her modesty, due to which she filed the present complaint. He submits that learned JMIC has failed to appreciate the allegations made and the evidence produced by the petitioner and thus, illegally dismissed the same vide order dated 18.9.2017 by observing that there is no sufficient material to summon the respondents. He further submits that learned revisional Court has also fallen in error in upholding the order dated 18.9.2017 vide order dated 01.08.2022. Learned counsel for the petitioner further submits that both the Courts below have fallen in error in not appreciating the oral as well as documentary evidence produced before them. He submits that the petitioner gave the detail of the occurrence which took place on 15.5.2014, 20.5.2014, 28.5.2014 and 29.5.2014. He submits that the view taken by both the Courts below is based on conjectures and surmises and thus, the same deserves to be set aside and the respondents be prosecuted for the offence in the complaint filed.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the accused were acquitted in complaint No.139 under Section 323, 354, 452, 506, 34 IPC vide order dated 18.7.2014 and appeal against acquittal is pending before this Court. In the present case, the petitioner produced the preliminary evidence, wherein, the complainant-petitioner appeared as CW-1 and Virender Singh appeared as CW-2. It is apparent from the observation made by the learned trial Court

that the occurrence of molestation has taken place in District Court Complex Jagadhri i.e. in a public place, however, no independent witness has been examined to corroborate the same. It was the petitioner and one more witness, who appeared during the preliminary evidence in support of the allegations. Having found the allegations not prima facie proved, the learned trial Court dismissed the same complaint vide order dated 18.9.2017. The revisional Court also appreciated the evidence and the law laid down by Hon'ble Supreme Court in case of M/s Pepsi Food Ltd. vs. Special Judicial Magistrate, 1997(4) RCR (Criminal) 761, wherein, it has been held that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set into motion as a matter of course. It is evident from the record that both the parties are at loggerheads for a considerable long time. The complainant-petitioner earlier also prosecuted the respondents in criminal complaint No.139, wherein, the respondents-accused were acquitted. Though the present occurrence has allegedly taken place in the District Court Complex but only the interested witnesses were examined and no independent witness was examined. It is further apparent from the record that the allegations in the complaint were enquired into by the DSP, who had duly submitted the enquiry report to the Superintendent of Police Yamuna Nagar on 15.9.2014. As per the enquiry, the allegations of the complainant levelled against the accused persons were found to be false. The allegations made by the petitioner-complainant have been appreciated by the learned trial Court as well as the revisional Court. The petitioner-complainant fails to substantiate her allegations before both the Courts below, thus, there is concurrent finding of fact against the petitioner.

Keeping in view the overall facts and circumstance of the present case in the

light of the law settled, this Court does not find any infirmity in the conclusion drawn by both the Courts below and thus, the petition being devoid of any merit is hereby dismissed.

29.10.2022			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/Nos