

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

Sr. No.120

CRM-M-47263-2022

Date of decision : 14.10.2022

Neeraj Kumar

.....Petitioner(s)

VERSUS

State of Haryana and others

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Kartar Singh, Advocate for the petitioner

AMAN CHAUDHARY, J.

The present petition under Section 482 Cr.P.C. has been filed for setting aside the order dated 19.9.2022 passed by learned Additional Sessions Judge, Palwal and order dated 17.3.2022, passed by learned Additional Chief Judicial Magistrate, Palwal, vide which both the Courts have failed to frame charge under Sections 452, 379-B, 34 IPC against the accused and also issue direction to the trial Court to frame the charges under the said Sections as well, in case FIR No. 578 dated 23.9.2021, registered under Sections 323, 379, 452, 506, 509, 511 IPC at Police Station City Palwal, District Palwal.

Learned counsel submits that in view of the statement recorded under Section 161 of Virmati, her husband Jeet Ram, Sections 452, 379-B and 34 IPC were made out, however, learned trial Court as well as learned revisional court had committed grave error in not framing the charges under the aforesaid sections. He further submits that prima facie case for charging

the petitioner under the aforesaid Sections was made out.

Heard.

It would be apposite to refer to the order passed by Additional Sessions Judge affirming the order of JMIC, wherein it was duly noticed that during investigation, it was found that accused neither entered the house of the complainant nor had snatched Rs.2000/-, it was consequent thereto after investigation, the challan under Sections 323, 379, 506, 509, 511 IPC was filed, in view of which, the charges were framed against accused -respondent Nos. 2 and 3 vide order dated 7.3.2022 by the trial Court and the allegations for commission of offence under Sections 379-B, 452 IPC were not found to be substantiated.

The revisional Court having examining the matter in detailed has rightly concluded that there is no illegality in the order of the trial Court while framing of the charges. The complainant, in case dissatisfied with the findings of the investigating agency, is at liberty to file application for alteration of charge after examination of the concerned witnesses before the trial court or may file independent criminal complaint before the Magistrate concerned with regard to the offence alleged and found to be not made out by the investigating agency.

Hon'ble The Supreme Court of India in the case of **State of Madhya Pradesh Versus Sheetla Sahai and others 2009(3) RCR (Criminal) 835**, held that "if upon perusal of material on record, the Court arrives at an opinion that two views are possible, the charges can be framed but if only one and only one view is possible to be taken, the Court shall not

put the accused to harassment for asking him to face a trial”.

Having perused the impugned orders as well as the statements relied upon by the trial Court and in view of the judgment afore referred, this Court finds no illegality or perversity in the orders of the Courts below, as such the present petition is dismissed, being devoid of merits.

14.10.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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