

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

Neutral Citation No. 2023:PHHC:158036

CRM-M-8981-2023

Reserved on: December 05, 2023

Date of Decision: December 11, 2023

Manpreet Kaur

...Petitioner

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. Ravi Gakhar, Advocate for the petitioner.
Mr. M.S. Nagra, AAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., petitioner prays for quashing of order dated 01.08.2022 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Fatehgarh Sahib, whereby application moved by the petitioner-complaint for amendment of the charge was dismissed during trial of case FIR No.69 dated 29.09.2018, under Sections 341, 323, 506 of IPC, registered at Police Station Mulepur, District Fatehgargh Sahib. Also under challenge is the order dated 14.10.2022 (Annexure P-5), whereby the revision filed against the above order dated 01.08.2022 (Annexure P-3), was dismissed by the Court of Sessions.

2. It is contended by learned counsel that FIR was lodged on the statement of petitioner against respondent No.2 and it had been alleged that the accused had dragged the complainant and her mother from their house and so, charges under Sections 452 and 456 IPC were required to be framed. However, learned Judicial Magistrate declined the application for amendment of the charge on the ground that statement under Section 161 Cr.P.C. and ruqqa were based on surmises and conjunctures and that complainant was modifying her version. Even the Court of Sessions failed to take note of the fact that the occurrence had taken place in the house of the complainant and so, charge was required to be framed accordingly. Learned counsel also contends that at the stage of framing of the charges, only *prima facie* case is required to be seen and that evidence is not to be scrutinized minutely. With these submissions, prayer is made to set aside the impugned orders and to direct the Trial Court concerned to amend charges accordingly.

3. Though, no representation is made on behalf of respondent No.2, despite service, but in the status report filed by respondent No.1-State, it is submitted that as per the FIR version, accused-respondent No.2 Mandeep Singh had come outside the house of the complainant, when complainant and her mother were alone in the house; that accused had attacked the complainant, when she came to save her mother, grabbed her by hair and dragged her to the street. Learned State counsel submits that during investigation, rough site plan was also prepared and brick bats were taken into possession from the spot and that complainant had never stated that accused had entered in their house and so, there was nothing to amend the charge. Prayer is made for dismissal of the petition.

4. I have considered submissions of both the sides and have appraised the record carefully.

5. It is true that at the stage of framing of the charge(s), only a *prima facie* case is to be seen and evidence collected during investigation, is not to be scrutinized minutely in such a manner, to find out as to whether it would lead to conviction or not. However, at the same time, there must be some *prima facie* material, so as to frame the charge for the offences, which the accused are alleged to have been committed.

6. In this case, FIR was lodged on the statement of petitioner Manpreet Kaur, as per which on 23.09.2018 at about 11.30 p.m., Mandeep Singh (respondent No.2) came outside her house. She and her mother- Jaspal Kaur were alone in the house. Mandeep Singh attacked her and her mother and when she (Manpreet Kaur) came forward to save her mother, accused Mandeep Singh grabbed her by hair and dragged her into the street, slapped her and hit a brick on her head and that as on the noise raised by them, people came outside, the accused fled away.

7. The FIR version does not disclose at all that the accused had entered the house of the complainant. However, the statement of Jaspal Kaur, who is mother of the complainant, recorded under Section 161 Cr.P.C. (copy Annexure P-7/T) would clearly reveal that accused Mandeep Singh had come outside the house, called her (Jaspal Kaur) by addressing her as *Massi* and when she came outside her house in the street, accused started shouting and then Manpreet Kaur (complainant) came there and it is then that accused grabbed her daughter, i.e. Manpreet Kaur from hair and dragged her into the street, slapped her and hit a brick on her head.

8. Thus, statement of Jaspal Kaur recorded under Section 161 Cr.P.C. would clearly make out that accused had not entered the house of the complainant party and rather, the occurrence had taken place outside the house and Manpreet Kaur was grabbed by hair and dragged into street, when she came outside, so as to rescue her mother.

9. In view of the aforesaid facts and circumstances, no fault can be found with the impugned orders passed by the Courts below, declining the amendment of charge, so as to add Sections 452 and 456 of IPC.

As such, present petition is dismissed.

December 11, 2023
sarita

(DEEPAK GUPTA)
JUDGE

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