

201 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28830-2018

DATE OF DECISION:-14.02.2023

Rama Devi & others

...Petitioners.

V.

Mohan Lal and another

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Mani Ram Verma, Advocate for the petitioners.

Mr. Sunny Namdev, Advocate for respondent No.1.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present petition under Section 482 Cr.P.C., prayer has been made for setting aside of order dated 11.06.2018 passed by the court of learned Additional Sessions Judge, Bhiwani, whereby order dated 03.07.2017 passed by the Court of learned Judicial Magistrate First Class, Bhiwani, has been modified, summoning petitioners No.2 to 4 and 8 as well, for the offences punishable under Sections 323 and 506 read with Section 34 IPC.

Brief facts of the case are that on account of an incident dated 27.06.2013, respondent No.1 filed a criminal complaint under Sections 323, 324, 325, 342, 452, 506, 34 and 120-B IPC against the present petitioners with the allegations that they forcibly entered into his house and gave beatings to him.

In the aforesaid complaint, respondent No.1, besides his wife and two others appeared as witnesses during preliminary evidence. The trial

court vide its order dated 03.07.2017 passed summoning order against Ramesh s/o Manphool, Sunil s/o Ramesh, Jagdish s/o Manphool, Saroj w/o Jagdish and Gulshan s/o Jagdish for commission of offence under Sections 323 and 506 read with Section 34 IPC while recording that no case under Sections 324, 325, 342, 452 and 120-B IPC was made out.

Aggrieved thereof, respondent No.1 filed a revision petition before the court of learned Additional Sessions Judge, Bhiwani, which was partly allowed vide order dated 11.06.2018, passing summoning order against all the petitioners for the offences punishable under Sections 323 and 506 read with Section 34 IPC. It is the aforesaid order dated 11.06.2018, which has been assailed by way of present petition.

Learned counsel for the petitioners submits that the order passed by the revisional court is totally non-speaking and un-reasoned. He further submits that in exercise of the revisional jurisdiction, the court could not have interfered with the order passed by the trial court without discussing or relying upon any substantial evidence on record besides the deposition made by the complainant-respondent No.1. Learned counsel further submits that in fact from perusal of the statement of CW-1 Mohan Lal, it can be traced out that the one injury on his ear has been apparently attributed to four petitioners, namely, Rama, Sonia @ Kusum, Neeru and Sunil. He also submits that Sonia @ Kusum and Neeru are the married daughters of Ramesh-petitioner No.1 and are living in their matrimonial house, who have only been implicated just to harass them and pressurize petitioner No.1.

On the other hand, learned counsel for respondent No.1 submits that there is no illegality or perversity in the order passed by the revisional court, which is based on proper appreciation of evidence available on record

in the shape of statements of respondent No.1-Mohan Lal (CW1), his wife Kanta Rani (CW2) and son Lalit(CW3), besides, Dr. Sanjiv Aggarwal (CW4) and thus, does not call for any interference.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioners.

It is more than settled that while passing summoning order against an individual, the court has to record reasons in support thereof by discussing the entire material available on record; the summoning order being of serious consequences affecting personal liberty of an individual.

In the present case, the trial court upon proper appreciation of evidence and after going through the material available on record summoned petitioner No.1 and petitioners No.5 to 8 as regards commission of offence under Sections 323 and 506 IPC read with Section 34 IPC, whereas, revisional court without recording any independent reasons regarding the legality and validity of the same has modified it in a most cursory and casual manner and that too, without even referring to any credible material warranting such interference and has passed the summoning order against all the petitioners under Sections 323 and 506 read with Section 34 IPC. The revisional court even failed to appreciate the fact that the entire family, including the married daughters, living in their matrimonial house have also been roped in and summoned. Even the prima facie credibility of the statement of CW1 Mohan Lal-complainant was required to be tested, he having attributed one injury to at least four petitioners.

In view of the discussion made herein above, the order passed by the court of learned Additional Sessions Judge, Bhiwani is set aside with the direction to decide the revision petition afresh after hearing both the sides, preferably within a period of two months from the date of receipt of certified copy of this order.

14.02.2023

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No