

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

105

2023:PHHC:068332
CRR-1243-2023
DECIDED ON: 11.05.2023

Sunita Devi

.....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Randeep Singh, Advocate, for the petitioner.

SANJEEV PRAKASH SHARMA, J (ORAL)

Learned counsel for the petitioner assailed the order dated 31.03.2023, where by the learned Additional Sessions Judge, (Fast Track Special Court for the offences of Rape and under POCOS Act), Kurukshetra has framed charges against the petitioner under Sections 450, 376(2)(n), 506, 313 and 120-B IPC and Sections 6 and 17 of the POCSO Act.

Learned counsel for the petitioner submits that charge sheet was filed by the Investigating Authorities of the case and Section 313 IPC was not made out however without giving any reference, the charges have been framed.

I have considered the submission. It would be apposite to quote the order passed by the Additional Sessions Judge, (Fast Track Special Court.

“Arguments heard on the points of framing of charge against the accused. Upon considering the record of the case and the documents submit therewith, and after hearing the submissions of the accused and the prosecution in this

behalf, there are sufficient grounds for presuming that the accused has committed the offences punishable under Sections 450, 376(2)(n), 506, 313, 120-B of IPC and Sections 6 and 17 of POSCO Act.

Accordingly, charge-sheet is framed to which the above-named accused pleaded not guilty and claimed trial. Now, matter is adjourned to 13.04.2023 for presence of accused before the Court through the video conferencing.”

From the perusal of above, it is apparent that there has been a complete non application of mind by the concerned Judge before framing of charges. The concerned Court must apply its mind and see whether prima facie charges are required to be framed under the various Sections of IPC. It may not be at length, however, the allegations and with reference to the provisions it must reach to a conclusion that charges are required to be framed.

Similarly for offences under the POCSO Act also, the order should be speaking one.

However, this Court finds that the impugned order is wholly laconic and lacks reasons. Accordingly, the order is quashed and set aside and the case is remanded back to the concerned Court to pass fresh order of framing of charges after giving opportunity of hearing to both the parties.

The petition is allowed.

(SANJEEV PRAKASH SHARMA)
JUDGE

11.05.2023
mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No