

In the High Court of Punjab and Haryana at Chandigarh

103

CRR- 682 of 2018(O&M)

Date of Decision: 13.02.2023

Gurmeet Singh

---Petitioner

versus

State of Punjab and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner
Mr. Amish Sharma, AAG, Punjab
Dr. Rau P.S.Girwar, Advocate
for respondent No. 2

JAGMOHAN BANSAL, J. (ORAL)

CRM-6579 of 2023

Allowed as prayed for.

Reply by way of counter affidavit of respondent No. 2 is taken on record. Registry is directed to tag the same at an appropriate place.

CRR-682 of 2018

The petitioner through the instant petition is seeking setting aside of order dated 18.01.2018 whereby Additional Sessions Judge, Bathinda, has framed charges against the petitioner.

Brief facts of the case are that petitioner solemnized marriage with respondent No. 2 on 05.12.2004. Due to matrimonial discord, the respondent lodged FIR No. 249 dated 19.10.2007 against the petitioner under Section 498-A IPC at Police Station, Jaitu, District

Faridkot. The parties entered into compromise and on the basis of statements of both the parties, the petitioner was acquitted. In view of settlement between the parties, both went to Golden Temple where parties made physical relation with each other. The respondent lodged complaint with police alleging that petitioner has misused his position and committed offence of rape upon her. The police did not register FIR and respondent filed criminal complaint. The trial court sought for report under Section 202 Cr.P.C. and thereafter summoned the petitioner. The matter was committed to Sessions Court and it came up for consideration before Additional Sessions Judge, Bathinda who vide impugned order dated 18.01.2018 framed charges against the petitioner under Section 376 IPC and other Sections of IPC.

Learned counsel for the parties are *ad idem* that on the date of alleged incident, there was no judicial or otherwise separation and they were husband wife. It is also conceded position that respondent was more than 18 years old at the time of alleged incident. It is also conceded that trial court had sought report under Section 202 Cr.P.C., however, report was not considered while framing charges.

Learned counsel for the parties fairly agreed to setting aside of impugned order with a direction to Additional Sessions Judge, Bathinda to consider report sought under Section 202 Cr.P.C. as well applicability of Sections 376 and 376-B of IPC.

In view of statements of both sides, the impugned order is set aside with a direction to Additional Sessions Judge, Bathinda to pass a fresh order after considering existence of marriage between the

parties, age of respondent No. 2 at the time of alleged incident and report sought under Section 202 Cr.P.C. Both the parties are at liberty to raise all the contentions qua different Sections of IPC.

Disposed of accordingly.

(JAGMOHAN BANSAL)
JUDGE

13.02.2023

paramjit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No