

CRM-M-39235-2021 (O&M)

-1-

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

126

CRM-M-39235-2021 (O&M)

Date of Decision : 27.03.2023

Gaurav Khatri

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Aman Pal, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Amit Rao, Advocate
Mr. Sanjiv Kumar Aggarwal, Advocate and
Mr. Ojas Bansal, Advocate
for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking quashing of FIR No.163 dated 26.07.2020 registered at Police Station PGIMS, Rohtak, under Sections 354-A and 451 IPC and order dated 02.03.2021 (Annexure P-4) whereby the trial Court has framed charges against the petitioner.

Mr. Aman, learned counsel for the petitioner *inter alia* contends that the trial Court has framed charges contrary to FIR as well as police report filed by Investigating agency. There was no allegation of commission of offence of theft on the part of the petitioner, however, trial Court has recorded a finding that the petitioner entered library of PGIMS, Rohtak in order to commit the offence of theft. He further submits that library of PGIMS, Rohtak is not a human dwelling unit whereas trial Court

while framing charges has observed that petitioner has entered in library which is used as human dwelling.

Learned State counsel as well as counsel for the complainant submit that the petitioner has entered into library of PGIMS, Rohtak without permission, thus, he has committed offence punishable under Section 451 IPC. He admittedly sat on the chair adjoining to chair of complainant and asked her name, thus, act of petitioner amounts to commission of offence punishable under Section 354-A of IPC.

I have heard arguments of learned counsel for the parties and perused the record.

The impugned order dated 02.03.2021 framing charges reads as:

“1. Isha Khatri. Additional Chief Judicial Magistrate, Rohtak, do hereby charge you the above named accused as under:

That on 22.07.2020 at about 11:15 PM.. in the area falling within the jurisdiction of P.S. PGIMS, Rohtak, you the above named accused was committed entering into the Library of PGIMS. Rohtak which is used as human dwelling and in order to commit the offence of theft and thus you thereby committed an offence punishable under Section 451 of IPC and within my cognizance.

Secondly, on the same date, time or place, you, the above named accused assaulted to the complainant Dr. Monika Shekhawat intending to outrage her modesty and thus you thereby committed an offence punishable u/s 354-A of

IPC and within my cognizance.

*And, I do hereby direct that you be tried by
this court on the above said charge.”*

From the perusal of afore-stated order, it comes out that trial Court has considered library as human dwelling unit and further observed that the petitioner had entered library with intent to commit offence of theft whereas as per State as well as the complainant, the petitioner entered library with intent to talk to complainant, thus, findings recorded by trial Court while framing charges are contrary to FIR, police report under Section 173 Cr.P.C. as well as arguments of learned State counsel and counsel for the complainant.

In view of facts and circumstances, this Court is of considered opinion that impugned order dated 02.03.2021 needs to be quashed and accordingly quashed.

The trial Court is at liberty to pass fresh order in accordance with law after considering ingredients of Section 451 as well as Section 354-A IPC.

Disposed of.

**(JAGMOHAN BANSAL)
JUDGE**

27.03.2023
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>