

262 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-958-2023

Date of decision: 28.08.2023

Gurpinderjeet Kaur

...Petitioner

vs.

State of Punjab and another

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Balbir Singh Jaswal, Advocate, for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the impugned order dated 19.11.2015 (Annexure P-1) passed by Judicial Magistrate 1st Class, Batala, whereby respondent No.2/accused had been discharged in a case arising out of FIR No.81 dated 30.06.1999 under Sections 323, 325, 380, 451, 427, 506, 149 of IPC at Police Station Ghoman, District Gurdaspur. A further prayer has been made to quash the order dated 23.08.2022 (Annexure P-5) passed by the Court of Additional Sessions Judge, Gurdaspur, whereby the application for condonation of delay in filing the revision petition had been dismissed.

As per story of the prosecution, on the complaint moved by Gurpinderjit Kaur, complainant/petitioner, FIR No.81 dated 30.06.1999 under Sections 323, 325, 380, 451, 427, 506, 149 of IPC was ordered to be registered at Police Station Ghoman, District Gurdaspur. In the said case, Mohan Raj, Raja and Balwinder Singh, accused were convicted and sentenced by the trial Court. The appeal was filed by the abovesaid accused and during the pendency of the

proceedings before the Appellate Court, the proceedings against Mohan Raj were abated on account of his death, whereas, Raja was acquitted on 06.08.2013.

At this stage, Dilrag Singh @ Jozy appeared in the Court and moved an application before this Court for grant of bail on the ground that he intended to surrender before the trial Court. He was granted the concession of bail on 18.07.2014 and was ordered to be admitted to bail. The matter remained pending before the trial Court and vide order dated 19.11.2015 (Annexure P-1), Dilrag @ Jozy, respondent No.2/accused was ordered to be discharged. Challenging the order dated 19.11.2015 (Annexure P-1), the petitioner/complainant filed a criminal revision petition before the Court of Sessions Judge on 31.08.2017. Vide the impugned order dated 23.08.2022 (Annexure P-5), the Court of Additional Sessions Judge, Gurdaspur held that the petitioner had failed to prove the sufficiency of reasons to condone the delay in filing the revision petition and the application under Section 5 of the Limitation Act was ordered to be dismissed and as a result of the same, the revision petition was also ordered to be dismissed. Challenging the said order, the petitioner has filed the present petition before this Court.

Learned counsel for the petitioner contends that the Revisional Court had completely overlooked the peculiar facts and circumstances of the case and the impugned order has resulted into manifest failure of justice. The Revisional Court failed to appreciate that the trial Court had wrongly discharged respondent No.2. Apart from that, the petitioner had no knowledge with regard to the discharge order dated 19.11.2015 passed by the trial Court. When the petitioner/complainant came to know about the said order on 02.08.2017, the petitioner engaged her counsel and filed the revision petition before the Sessions Court.

I have heard learned counsel for the parties and with their able assistance, I have carefully gone through the record.

It is apparent that in the present case, vide order dated 19.11.2015 (Annexure P-1), the Court of Judicial Magistrate 1st Class, Batala held that no case for framing charge against respondent No.2/accused was made out and respondent No.2 was ordered to be discharged. Still further, respondent No.2 had filed a suit for damages for malicious prosecution against the petitioner, however, she refused to accept the summon on 31.01.2017, whereas her husband had accepted the same. Apart from that, it is the admitted case of the parties that the petitioner/complainant is residing with her husband. Consequently, it can be safely inferred that the petitioner/complainant had the knowledge about the order (Annexure P-1) on 31.01.2017. However, she did not file a revision petition for a period of about six months even after that and ultimately, the revision petition was filed by the petitioner on 31.08.2017. Still further, in the civil suit filed by respondent No.2, there was mention of discharge of order dated 19.11.2015 and the petitioner had the knowledge about the said discharge order even on 31.01.2017, as she was also residing with her husband. Thus, the Revisional Court has rightly dismissed the application under Section 5 of the Limitation Act and there were no sufficient reasons for condoning the delay in filing the revision petition before the Sessions Court.

Finding no merits in the present petition, the petition is ordered to be dismissed.

(N.S.SHEKHAWAT)
JUDGE

28.08.2023
hemlata

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