

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

CRR-2784-2022 (O&M)

Date of Decision:- 24.03.2023

AMANDEEP SINGH

....Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. K.S. Kahlon, Advocate for the petitioner.

Mr. Kunwarbir Singh, Assistant A.G. Punjab.

Mr. Umesh Aggarwal, Advocate for the respondent No.
2/complainant.

AMARJOT BHATTI, J. (Oral)

CRM-10247-2023

The counsel for petitioner has filed an application under Section 482 Cr.P.C. for placing on record zimni orders dated 21.10.2021 and 11.11.2021, Annexure P-9 and P-10 respectively.

For the reasons enumerated in the application, the same is allowed and the accompanied documents i.e. Annexure P-9 and P-10 is taken on record.

Application stands disposed of.

CRR-2784-2022

1. The petitioner Amandeep Singh has filed the instant revision against impugned order dated 10.11.2022 passed by learned Additional Sessions Judge, Gurdaspur vide which the revision preferred by Baljit Kaur – complainant was accepted and the impugned order dated

11.11.2021 passed by learned Judicial Magistrate 1st Class, Batala regarding framing of charge was set aside by giving direction to the Court concerned to pass fresh speaking order regarding framing of charge after appreciating the facts and the evidence on record.

2. As per the facts of the present case, Baljit Kaur - complainant gave her statement to the police that she got married with Amandeep Singh on 28.10.2016. Her parents had given her dowry as per their status. After six months of marriage, her in-laws started harassing her in order to compel her to bring more dowry. On 15.06.2019, her father Surinder Singh and brother Sukhjit Singh came to meet her and she narrated all the facts to them. She was brought back in her parental house. After about one month, her husband and father-in-law started giving threats on telephone. There was a meat shop in front of their house. Amandeep Singh and his friends used to consume liquor and threatened her. She was told to give divorce to him. The matter was pending before Women Cell, Batala for investigation. On 31.08.2020 at 07:00 P.M, she was present in the house along with her family. Amandeep Singh - husband, Didar Singh - father-in-law and Kuldeep Kaur - mother-in-law came in the said meat shop in front of the house of complainant and started abusing her family. She along with her father and brother went near the meat shop and tried to stop them. Her mother-in-law Kuldeep Kaur raised a lalkara to catch hold of them for denying to give divorce. Her husband Amandeep Singh and father-in-law Didar Singh picked up a *kadhahi* of boiling hot oil and poured it on them. She stepped backward to save herself, as a result, the hot oil fell on her left side of leg and arm. Her father and brother also received some injuries due to hot oil. Her father and brother were given treatment in Civil Hospital,

Fatehgarh Churian, whereas, the complainant was taken to Guru Nanak Dev Hospital, Amritsar where her statement was recorded. After completion of investigation, challan was presented in the Court. Copy of challan report is Annexure P-3. Copy of FIR No. 102 dated 02.09.2020 under Section 307, 498-A, 506, 323/34 of IPC, Police Station Fatehgarh Churian, Police District Batala, Gurdaspur is Annexure P-2. Copy of DDR No. 27 dated 23.11.2020 is Annexure P-4 vide which the offence under Section 307 of IPC was deleted. After hearing arguments on charge, vide order dated 11.11.2021 Annexure P-10, the charges were framed under Section 498-A, 324, 323, 506 of IPC and the case was fixed for prosecution evidence. Feeling aggrieved of this order, the revision was preferred by the complainant which was accepted vide impugned order dated 10.11.2022 passed by learned Additional Sessions Judge, Gurdaspur and the case was remanded back to the Court concerned with the direction to pass speaking order regarding framing of charge-sheet. Feeling aggrieved of this order, present revision has been filed.

3. The learned counsel for the petitioner argued that the impugned order dated 10.11.2022 passed by learned Additional Sessions Judge, Gurdaspur is without any basis. There was no requirement to remand back the case to the learned Judicial Magistrate 1st Class for passing fresh order regarding framing of charge. The case was at initial stage. No evidence was recorded. In case, there was any requirement to amend the charge-sheet, the petitioner could have filed application for amendment of charge. In fact, in the case in hand, no offence under Section 307, 326-A of IPC is attracted. The learned counsel for the petitioner referred to the MLR Annexure P-6 and the opinion of doctor Annexure P-5A, according to

which, the injuries on the person of Baljit Kaur were declared as simple in nature. Therefore, the learned Judicial Magistrate 1st Class rightly framed the charge-sheet under the provisions of Section 498-A, 324, 323, 506 of IPC and did not consider it fit to frame charge-sheet under Section 307 or 326-A of IPC. It is argued that impugned order dated 10.11.2022 is without any justification. Therefore, the same may be set aside by accepting the present revision.

4. On the other hand, learned counsel for the respondent No. 2 as well as learned counsel representing the State pointed out that the learned Judicial Magistrate 1st Class has passed the order of framing charge dated 11.11.2021 without appreciating the facts and the documents on record. There is no observation of the learned Judicial Magistrate 1st Class as to why the charge was not framed under Section 307 or 326-A of IPC. The revision preferred by petitioner is without any justification as vide impugned order dated 10.11.2022, learned Additional Sessions Judge has merely directed the learned Judicial Magistrate 1st Class to pass speaking order regarding framing of charge-sheet. The present criminal revision has been filed only to delay the proceedings of the case. Therefore, the same may be dismissed.

5. I have considered the arguments and have gone through the record carefully. The FIR No. 102 dated 02.09.2020 was registered on the statement of Baljit Kaur – respondent No. 2. As per the challan report Annexure P-3, after investigation, the challan is presented under Section 498-A, 506, 323, 324 of IPC by deleting the offence under Section 307 of IPC. The challan was presented before learned Judicial Magistrate 1st Class and it was received by way of transfer in the Court of Sh. Manpreet Sohi,

Judicial Magistrate 1st Class, Batala. As per zimni order dated 11.11.2021 Annexure P-10, he passed order qua framing of charge under Section 498-A, 324, 323, 506 of IPC. Feeling aggrieved of this order, the complainant had filed revision before learned Additional Sessions Judge, which was accepted vide impugned order dated 10.11.2022 vide which the case was remanded back to the learned Judicial Magistrate 1st Class, Batala with the direction to pass speaking order regarding framing of charge-sheet. The contents of zimni order dated 11.11.2021 Annexure P-10 clearly indicates that the learned Judicial Magistrate 1st Class did not appreciate the facts of the case, statements of the witnesses and the medical record already on file at the time of framing of charge-sheet. Apart from the statement of complainant, there is medical record i.e. MLR Annexure P-6 pertaining to Baljeet Kaur, according to which, she suffered four injuries on the left side of her foot, thigh, arm and left lower abdomen. Similarly, there is MLR of Sukhjeet Singh and Surinder Singh on the record. As per the contents of challan report, it indicates that the complainant was taken to Guru Nanak Dev Hospital, Amritsar for treatment and the said record must have been collected by the Investigating Officer and placed on record before the learned Judicial Magistrate 1st Class. As per the version of petitioner, the charge-sheet was rightly framed by the learned Judicial Magistrate 1st Class, Batala, whereas, as per the version of respondent No. 2/complainant, the charge-sheet should have been framed under Section 307, 326-A of IPC. As per the zimni order dated 11.11.2021 Annexure P-10, the learned Judicial Magistrate 1st Class, Batala did not appreciate any of the fact and framed the charge-sheet without passing any reasoned order. Therefore, considering the factual position, the impugned order

dated 10.11.2022 passed by learned Additional Sessions Judge does not require any interference where the case is remanded back to the learned Judicial Magistrate 1st Class to pass speaking order regarding framing of charge-sheet. It is again the discretion of learned Judicial Magistrate 1st Class to decide under what provisions the charge-sheet is to be framed but at the same time, the learned Judicial Magistrate 1st Class, Batala is required to pass reasoned order at the time of framing of charge-sheet. Therefore, I do not find any illegality or irregularity committed by the learned Additional Sessions Judge, Gurdaspur in passing the impugned order dated 10.11.2022 and the same is accordingly, upheld and the criminal revision preferred by the petitioner is accordingly, declined.

Pending application(s), if any, also stands disposed of

24.03.2023

lalit

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No