

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.21005 of 2017
Date of decision: 09.02.2024

Baljit Kaur

... Petitioner

Vs.

Vikremjeet Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Bijender Dhankar, Advocate,
for the petitioner.

Mr. B.S. Mittal, Advocate,
for respondents No.1 to 4.

Mr. Neeraj Poswal, AAG, Haryana,
for respondent No.5.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 482 of Cr.P.C. by the petitioner seeking setting aside of order dated 09.10.2015 passed by learned Judicial Magistrate, 1st Class, Sirsa in Criminal Complaint No.19-1 of 2014 titled as *Baljeet Kaur v. Manpreet Kaur and others* whereby, the learned Magistrate had dismissed the complaint as against the respondents No.3 and 4 and while issuing process as against the respondents No.1 and 2, had summoned them only for commission of offences punishable under Sections 323 and 506 read with Section 34 of IPC and not for commission of offences punishable under Sections 324, 354-B, 452 and 508 of IPC.

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2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned complaint had originally been filed by the present petitioner against the respondents alleging therein that she resided in a paying guest (PG) accommodation in ADC Colony, Sirsa and was a student of Accountancy. Dilbag Singh who is husband of the present respondent No.2 was the resident of the same village to which she belonged and they knew each other very well. On 19.09.2014, Dilbag Singh had called her by making request to cook meals with for him as his wife had gone to meet her parents. On his request, she went to his house and while after cooking meals for him, she was leaving, Dilbag Singh had offered her to stay there as it was late. On his request, she had slept in the house of Dilbag Singh itself. It was further alleged by her that on the same night at about 10 PM, by knocking at the door, the respondent No.2, her parents i.e. respondents No.3 and 4 along with respondent No.1 entered inside the house and on seeing her, they opened an assault upon her. Her clothing was torn of. She was abused and insulted. The accused persons even tried to outrage her modesty and also injured her. She was also criminally intimidated. Even Dilbag Singh also sustained injuries at the hands of the respondents. The petitioner had reported the matter to the police but since no action was taken, therefore, she filed private complaint.

3. After recording preliminary evidence and hearing learned counsel for the petitioner, the learned Magistrate, vide order dated 09.10.2015, dismissed the complaint qua the respondents No.3 and 4 by

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observing that no prima facie case for commission of any offence had been made out against them. However, the respondents No.1 and 2 were ordered to be summoned for commission of offences punishable under Sections 323 and 506 read with Section 34 of IPC as mentioned above.

4. It has also come on record that the present petitioner filed revision petition seeking modification in the impugned order dated 09.10.2015 for summoning the respondents No.3 and 4 as accused and also challenged the order of for not issuing process against the respondents No.1 and 2 for commission of offences punishable under Sections 324, 354-B, 452 and 508 of IPC whereas the respondents No.1 and 2 filed two separate revision petitions against the same order thereby challenging the issuance of process as against them. The Court of learned Additional Sessions Judge i.e. Revisional Court has decided all these three petitions by a common order dated 09.05.2017 thereby accepting the revision petitions as filed by respondents No.1 and 2 and dismissing the revision petition filed by the present petitioner and aggrieved by the same, the instant petition has been filed.

5. It is submitted in the petition and learned counsel for the petitioner has argued that the Revisional Court committed a grave error in accepting the revisions as filed by the respondents No.1 and 2 and dismissing the petition as filed by her as there was prima facie sufficient evidence on record to prove that all the respondents in furtherance of their common intention had barged into the house of Dilbag Singh, had opened an assault upon the petitioner thereby causing injuries to her, had

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used criminal force with her with intent to disrobe her by tearing of her clothing and had also criminally intimidated her by extending threats to her. He has also argued that the learned Revisional Court also erred in affirming the order dated 09.10.2015 as passed by learned Magistrate to the extent to which the complaint as filed against the respondents No.3 and 4 was dismissed. With these broad submissions, he has urged that the present revision petition deserves acceptance.

6. On the other hand, learned counsel for respondents No.1 to 4 has argued that there was no illegality or infirmity in the orders as passed by the learned Magistrate to the extent to which the complaint as filed against the respondents No.3 and 4 was dismissed and in the order dated 09.05.2017 as passed by learned Additional Sessions Judge/Revisional Court whereby the order passed by the Magistrate for issuing process against the respondents No.1 and 2 as accused was reversed. He has argued that infact there was illicit relationship between the petitioner and Dilbag Singh husband of respondent No.2 and they were caught red handed on the fateful day and a scuffle had taken place, as the petitioner and Dilbag Singh had not even opened the door of the house. Accordingly, it is submitted that this petition deserves outright dismissal.

7. I have heard learned counsel for the parties at considerable length and have given due deliberations to the contentions as raised by them besides perusing the material placed on record.

8. It is the case of the petitioner that she had gone to the house of Dilbag Singh on the night of 19.09.2014 to cook food on his request and

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had stayed there when the respondents had barged in and had assaulted her. The respondent No.2 is admittedly the wife of the abovesaid Dilbag Singh and, therefore, there could be stated to be no question of her criminally trespassing into/barging into her own house. Rather it is revealed from the contents of the allegations in the complaint itself that while the petitioner herself was inside the house of the above named Dilbag Singh, the door of the house was not opened and it was alleged by the petitioner herself that the respondents entered therein after breaking open the same. Meaning thereby that the petitioner and Dilbag Singh did not open the door by themselves though they were inside. Respondent No.1 being wife of Dilbag Singh had a right to come to her own house and the respondents No.3 and 4 were also not strangers but are parents of the respondent No.2 herself. Obviously when in the absence of respondent No.1, the present petitioner had not only gone into her house but had stayed therein in the odd hours when no person other than Dilbag Singh was present there, and in the circumstance when the door of the house was not opened by Dilbag Singh or the present petitioner, it was but natural for the respondents to break open the door and to enter inside the house. The learned Magistrate had considered the evidence led by the petitioner and of PW-2 who was an alleged witness to the incident and had come to the conclusion that no case for issuance of process as against respondents No.3 and 4 had been made out. Even in the complaint, no specific overt had been attributed to them and it was simply alleged that the parents of respondent No.2 had come inside the house. As such, on

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the basis of mere presence of the respondents No.3 and 4 obviously, no case for summoning them accused had been made out.

9. Further, so far as the respondents No.1 and 2 are concerned, no doubt, they were summoned as accused by the learned Magistrate and process was issued against them for commission of offence punishable under Sections 323 and 506 read with Section 34 of IPC. However, in my opinion, the learned Additional Sessions Judge had rightly set aside the order as passed by learned Magistrate for summoning them as an accused qua commission of the aforementioned offences. PW-2 Dilbag Singh i.e. husband of the present respondent No.2 appeared as a witness on behalf of the petitioner and the case of the respondents is that both of them are having illicit relationship and that is why the petitioner was found present in the house of respondent No.2 when Dilbag Singh was alone during the night time. In his statement, PW-2 Dilbag Singh stated that his son had knocked at the main gate and had asked him to open the same. It is clear from his statement that it is only after the main gate was not opened that the respondents had broken open the same. No doubt, the petitioner and PW-2 Dilbag Singh had been medico legally examined and some injuries were found on their person. PW-5 Prem Singh who was an independent witness and cousin of Dilbag Singh deposed about the factum of a fight taking place between the parties on the fateful night. The learned Lower Appellate Court after going through the evidence produced on record and having considered the contentions raised by both the sides had given a well reasoned finding of the fact that no case for

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commission of offences punishable under Sections 323, 506 read with Section 34 of IPC had been made out as against respondents No.1 and 2. That apart, in the considered opinion of this Court, on the basis of the allegations as levelled in the complaint and from the evidence produced by the petitioner, no case for commission of offences under Sections 324, 354-B, 452 and 508 of IPC had also been made out as against either of the respondents. More so, the petitioner did not place any material on record to show that the matter was ever reported to the police. The complaint by the petitioner had also been filed after a gap of three months qua which no explanation has come on record. In view of the discussion as made above, it is held that the order passed by the learned Revisional Court did not warrant any interference and deserves to be upheld. Accordingly, the petition is dismissed.

09.02.2024
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(MANISHA BATRA)
JUDGE

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