

CRM-M-40822-2021

2024:PHHC:005191

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40822-2021

Date of Decision: 16.01.2024

RAJINDER CHABRA & OTHERS

... Petitioners

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. N.C. Manchanda, Advocate
for the petitioners.

Mr. Ravish Kaushik, Addl. A.G., Haryana.

Mr. Arshdeep Singh Virdi, Advocate for
Mr. Aman Pal, Advocate
for respondent No.2.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 14.07.2021 (Annexure P-4A) passed by the Addl. Sessions Judge, Panipat vide which the Court has directed the JMIC, Panipat to reconsider the order dated 13.03.2019 (Annexure P-8) whereby the application under Section 319 Cr.P.C. to summon the petitioners has been dismissed.

2. The brief facts of the case are that the prosecution was launched on the application moved by the complainant-Sapna, who reported that she along with her husband was running a cloth shop in the name of Sapna Suits in Insar Bazar, Panipat. On 25.07.2016 at about 7.30 PM, when she and her husband Mukesh were at the shop, Naresh, owner of the adjoining shop PK Dupatta, approached her husband and intentionally took him upstairs. In the

meanwhile, Rocky Behal and a person from Suraj Jewellers, came at the shop of PK Dupatta where another boy was present and all of them started making dirty gestures at her and started hurling abuses. When she confronted them, they threatened to kidnap her and defame her in the market. When she protested, those boys came at her shop and Rocky slapped her and tried to drag her by her hands. In the process, her ear ring was lost. When she resisted, Suraj inflicted a fist blow and the boy of PK Dupatta caught hold of her and beat her. Her one tooth was broken and other two teeth became shaky. When they tried to drag her, she raised a hue and cry and her husband and father-in-law reached there and a scuffle ensued. Those accused persons had also given beatings to her husband and father-in-law and her husband had received a knife blow. The copy of the FIR No.972 dated 26.07.2016 under Sections 354A, 354, 323, 325, 120B, 506 IPC Police Station City PNT is attached as Annexure P-1/T.

3. On conclusion of the investigation, the report under Section 173(2) Cr.P.C. was submitted against Suraj Parkash son of Om Parkash alone whereas the petitioners were placed in Column No.2. The copy of the Report under Section 173(2) Cr.P.C. is attached as Annexure P-2 to the petition.

4. During the course of the Trial, the complainant stepped into the witness box as PW1 and reiterated the prosecution case against all the accused including the petitioners. The copy of the deposition of complainant-Sapna as PW1 is attached as Annexure P-3 to the present petition.

5. Based on the aforementioned deposition, an application was moved under Section 319 Cr.P.C. for summoning the remaining accused i.e. the petitioners. The said application was dismissed by the Trial Court vide

order dated 23.05.2019. The copy of the said order dated 23.05.2019 is annexed as Annexur P-4 to the present petition.

6. The complainant preferred a revision petition before the Court of Addl. Sessions Judge, Panipat. The said Court vide judgment dated 14.07.2021 accepted the revision petition and remanded the case back to the Trial Court with a direction to reconsider the application under Section 319 Cr.PC. in view of the observations made in the said order. The copy of the order dated 14.07.2021 is attached as Annexure P-4A.

7. It is this order which is under challenge in the present petition.

8. The learned counsel for the petitioners contends that the Lower Appellate Court has wrongfully set aside the order of the Trial Court and remanded the case back for a fresh adjudication. The complainant had made substantial improvements in her deposition in Court from her earlier statements given at various stages. The Investigating Agency had conducted a detailed investigation and it was only then that the petitioners had been exonerated. In fact, no fresh evidence had come on the record to summon the petitioners. Various shopkeepers of the area had submitted written complaints against the complainant and her family members of them being of a quarrelsome nature. He, therefore, contends that the impugned order of remand was liable to be set aside.

9. The learned State counsel while referring to the reply dated 23.09.2022 contends that the petitioners had been exonerated after a detailed inquiry. Various persons had been examined who had also furnished their separate affidavits to the effect that the petitioners had only intervened in the quarrel and had not induced anyone to quarrel and neither did they tease the

complainant nor did they attempt to catch hold of her hand. In fact, no manhandling had occurred as has been suggested by the complainant. Therefore, while exonerating the petitioners, Sections 354, 354A, 120B IPC were deleted. Suraj Parkash had been arrested and had suffered his disclosure statement admitting the manner in which the occurrence had taken place. He, therefore, contends that the impugned order was liable to be set aside.

10. On the other hand, the learned counsel for respondent No.2/complainant while referring to the reply dated 11.02.2022 contends that both the complainant and her husband were injured in the occurrence. Specific allegations had been levelled by the complainant against all the accused including the petitioners. She had got recorded the FIR, her statement under Section 164 Cr.P.C. and had given yet another statement to the legal aid counselor other than the deposition in Court. The said statements were consistent in material particulars. Therefore, the Trial Court had, without due application of mind not summoned the petitioners and the Lower Appellate Court had undone the travesty of justice by remanding the case back for a fresh adjudication on merits keeping in view the observations made by the said Court. He, therefore, contends that no fault could be found with the order of remand.

11. I have heard the learned counsel for the parties.

12. Admittedly, the petitioners were placed in Column No.2 and an application to summon them under Section 319 Cr.P.C. was dismissed. A revision petition was preferred against the said order where the Lower Appellate Court remanded the case back with certain observations and asked the Trial Court to decide afresh keeping in the observations made. At this

stage, I do not deem it appropriate to interfere with the order of remand and therefore, the present petition stands dismissed.

13. However, the Trial Court is directed to pass a fresh order on the application under Section 319 Cr.P.C. uninfluenced by any observations made in the order of the Lower Appellate Court dated 14.07.2021 (Annexure P-4A) but after examining the evidence and record in detail.

(JASJIT SINGH BEDI)
JUDGE

16.01.2024

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No