



215 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-2576-2023 (O&M)
Date of Decision: 18.10.2024

GURMAIL SINGH AND ANOTHER

...Petitioners

V/S

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akashdeep Miglani, Advocate
for the petitioners.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The present revision petition is preferred against the impugned order dated 07.08.2023 passed by the learned Additional Sessions Judge, Fast Track Special Court, Sirsa whereby the application filed by the petitioners seeking their discharge from all charges, was dismissed.

2. Briefly, the case of the prosecution is that Inderjit Singh, son of the petitioners, solemnised marriage with respondent No.2-complainant on 07.03.2021. The petitioners were not satisfied with the dowry articles brought by respondent No.2 and demanded Rs. 5,00,000/-. They also told respondent No.2 that Inderjit Singh was previously married to another lady but she was divorced in two months as she failed to fulfil their demands. The petitioners-accused gave beatings to respondent No.2 and refused to settle her in their house even after intervention of Panchayat. Petitioner No.1 (father-in-law) also tried to establish physical relations with respondent No.2. When she disclosed the matter to her husband and petitioner No.2 (mother-in-law), they threatened to



shunt her out of her matrimonial home if she disclosed the same to anyone. The petitioners also instigated Inderjit Singh to demand an Innova car and if she fails to do so then to divorce her and shoot her with a pistol.

3. Learned counsel for the petitioners *inter alia* contends that the respondent No.2 and their son-Inderjit Singh had solemnised a love marriage on 07.03.2021 and left the home of the petitioners on 22.04.2021. The couple often demanded money from the petitioners to meet their expenses and the scuffle ensued when they refused to pay them. Moreover, the petitioners have disowned Inderjit Singh through publication dated 06.05.2021 in a newspaper. Respondent No.2 has made bald allegations qua attempted rape, without so much as specifying a time for the alleged incident. In fact, respondent No.2 has also denied to be medically examined to prove the same. The learned trial Court has framed charges inspite of lack of any evidence suggesting existence of a *prima facie* offence made out against the petitioners. Furthermore, penetration is *sine qua non* for attracting offence under Section 376 IPC and he relies upon the judgment of Hon'ble Supreme Court passed in ***State of Madhya Pradesh Vs. Mahender alias Golu*** 2021 AIR SC 5242, ***Koppulu Venkat Rao Vs. State of Andhra Pradesh*** 2004 AIR SC 1874, ***Madan Lal Vs. State of Jammu and Kashmir*** (1997) 7 SCC 677 and ***Aman Kumar and Another Vs. State of Haryana*** 2004 AIR SC 1497.

4. Having heard the learned counsel for the parties and after perusing the record with their able assistance, this Court does not find it proper to adjudicate upon disputed questions of facts while the matter is pending



consideration before the learned Court below. The matter requires to be adjudicated by the learned trial Court on the basis of the evidence adduced by the parties and the probable defence as set up by the petitioners cannot be gone into at this stage. A two Judge bench of the Hon'ble Supreme Court in ***HMT Watches Limited vs. M.A. Abida (2015) 11 SCC 776*** has held that inherent powers under Section 482 of the Cr.P.C. cannot be extended to determining question of facts. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law.

5. A two Judge bench of the Hon'ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT) 2022 SCC Online SC 513***, speaking through Justice Hrishikesh Roy, observed as under:

“17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”

Furthermore, in ***Sampelly Satyanarayana Rao vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458***, a two Judge bench of the Hon'ble Supreme Court, speaking through Justice Adarsh Kumar Goel, made the following observations:

“17. As is clear from the above observations of this Court, it is well settled that while dealing with a quashing petition, the Court has ordinarily to proceed on the basis of averments in the complaint.

The defence of the accused cannot be considered at this stage. The court considering the prayer for quashing does not adjudicate upon a disputed question of fact.”

6. Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

7. However, nothing observed herein shall be construed as expression of an opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

18.10.2024
Ajay Goswami

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