

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Criminal Revision No. 973 of 2007

Date of decision:- 31.7.2008

Amit Kumar and others

...Petitioners.

Versus

State of Haryana and another

...Respondents.

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Bimlesh Kumar, Advocate and  
Mr. Kundan Kumar Mishra, Advocate and  
Mr. Gorakh Nath, Advocate  
for the petitioners.

Mr. Navneet Singh, AAG, Haryana.

Mr. Jaiveer Yadav, Advocate

**RAJESH BINDAL J.**

Challenge in the present petition is to the order passed by learned Additional Sessions Judge, Narnaul dated 24.3.2007 whereby charges were framed against the petitioners under Sections 498A, 506 and 313 IPC.

Learned counsel for the petitioners submitted that the learned court below has gone wrong in framing charge against the petitioners under Section 313 I.P.C. The material before the court was not sufficient for prima facie forming an opinion that the offence under Section 313 I.P.C. was committed by the petitioners. It was merely a medical report on the basis of which the charge was framed which always did not support the case of the prosecution. He further submitted the fact that the allegations against the petitioners for commission of offence under Section 406 IPC were found to be false, shows the conduct of the complainant that the false allegations are being levelled against the petitioners. Prayer is for setting aside the order passed by the learned court below framing charge against the petitioners under Section 313 IPC.

On the other hand learned counsel for the respondents submitted that at the time of framing of charge the court has merely to see prima facie case. It is not recording conviction. In case after trial sufficient material is not brought on record by the prosecution, the petitioners will be acquitted of the charge. He further submitted that the statements of two main witnesses have already been recorded. The next date of hearing is fixed for 2.8.2008 and conclusion of trial is not going to take long. Even on merits the submission is that besides the medical report, there is oral statement of the complainant stating that it was on account of beatings by the petitioners that she aborted her foetus. Accordingly, offence under Section 313 IPC was clearly made out.

Having heard learned counsel for the parties and on perusing the impugned order, I do not find any justification to interfere therein. It is not a case that the petitioners have been found to be guilty of charge under Section 313 IPC only. The charges also have been framed against the petitioners under Sections 498-A and 506 IPC. Even if the argument of the learned counsel for the petitioners is accepted still the trial is to continue for other two charges framed against the petitioners. As is noticed above at the stage of framing of charge merely prima facie case is seen. In case prosecution fails to bring sufficient material on record, petitioners will not be acquitted of the charge under Section 313 IPC. No prejudice as such has been caused to the petitioners merely by framing of charge under Section 313 IPC, when the petitioners in any case are facing trial. Effort is to scuttle the trial at the initial stage, which cannot be appreciated.

For the reasons mentioned above, I do not find it to be fit case to set aside the impugned order. Even otherwise as it is submitted the trial is already in progress. Statements of two main witnesses have already been recorded. At this stage it would not be appropriate for this Court to interfere in the impugned order.

The petition is dismissed.

July 31, 2008  
ritu-II

(RAJESH BINDAL)  
JUDGE