

**IN THE COURT OF MS LAVLEEN SANDHU, JUDICIAL MAGISTRATE, IST CLASS,
PATHANKOT.**

CIS No.CHI/1325-14

Date of Instt; 11.07.2013

Date of order; 07.11.2017

State vs Jaskaran Singh

Application U/s 216 Cr.PC for amendment of charge

Present: Ld. APP for the State.
Accused on bail with Counsel Sh.Ajay Dadhwal, Advocate.

ORDER

This order of mine is going to dispose of an application U/s 216 Cr.PC for amendment of charge and addition of charge U/s 382 and 201 IPC, filed Ld. APP for the State.

2. Brief facts of the application are that in the present case PW complainant has been examined and during her chief examination she has specially stated that at the time of occurrence accused had snatched her purse containing Rs.2000/- without her consent. That therefore, offence under section 382 IPC is made out against the accused. In the end prayer for addition of charge U/s 382 is made. Further, stated that an offence under section 201 IPC is also made out as during the investigation no recovery had been effected from the accused. In the end prayer for amendment of charge and addition of U/s 382 and 201 IPC is made.

3. On the other hand, notice of the application was given to accused who has filed reply through his counsel stating that complainant had leveled false story and false allegations against the accused and there is no material evidence on file and merely on the basis of oral statement of complainant no offence under section 382 IPC is made against the accused. Further, it is asserted that no such occurrence had taken place and

thus no recovery could have been effected from the accused. That false allegation leveled against the accused as such no recovery is effected from the accused and no offence U/s 382 IPC and 201 is made out. In the end prayer for dismissal of complaint is moved.

4. I have heard Ld. Counsels or the parties and perused the file.

5. Though Section 216 of Cr.P.C. confers immense powers on the court to alter or add to any charge at any time before judgment is pronounced but In case titled as **Kanti Lal Chandu Lal Vs. State of Maharashtra AIR 1970(S.C.).359** it was held by Hon'ble Supreme Court that *unless there is evidence on record to support the addition or alteration the power to add or alter the charge cannot be exercised.*

6. Perusal of the statement of prosecutrix, recorded with police U/s 161 Cr.PC shows that, she has mentioned that on 24.11.2010 at about 2.00/3.00 pm she was going to Sai College Bhadhani in order to fill up form of compartment in exam. That when she reached near her college gate then the accused by the name of Jaskaran Singh, who also studied in the same college came there and proposed her for marriage. That he induced her to go to his village along with him in order to get marriage. That when she refused to accept his offer then accused threatened her with dire consequences and maltreated her. That accused gave her beating with base ball and also used abusive language to her. That accused hit her on both arms, head, both legs and at her back. That accused also snatched her purse containing cash Rs.2000/-. Similarly, Prosecutrix when appeared as PW-3 reiterated her entire version of statements U/s 161. Statements of complainant was recorded on 28.11.2010 and incident took place on 24.11.2010. The FIR was registered on 28.11.2010 and accused was arrested on 28.11.2010. However, despite joining of accused in the investigation no recovery could be effected from the accused. Moreover, from the statement of the prosecutrix it transpires that intention of the accused was to force her to marry. It is not the version of the prosecutrix that she was beaten or wrongfully restrained in order to commit theft. So as held by Hon'ble Supreme Court, there must be some

evidence to support allegations. In case of the offence committed against the modesty of the prosecutrix, her sole testimony is sufficient, but to frame charge U/s 382 IPC same is not sufficient and there has to be some independent and supportive evidence. However, when no recovery was affected from the accused, neither there is any other supportive evidence, so no ground is made out to alter, amend the charge U/s 382 IPC.

7. Similarly, so far as offence U/s 201 IPC is concerned there is no evidence on record that accused has ever destroyed any evidence. Therefore, when there is not even a single material to support the allegation no ground is made out to alter and amend charge U/s 201 IPC. Hence, in view of the above discussion present application for amendment of charge is dismissed.

ANNOUNCED ON IN THE COURT OF

Lavleen Sandhu(PCS),
JMJC/Pathankot/UID No.0506

Date of Order: 07.11.2017

Typed by:-
Bharti(Steno-III)

Next Date: 17.11.2017

Purpose:

Present: Ld. APP for the State.

Accused on bail with Counsel Sh.Ajay Dadhwal, Advocate.

Heard vide my separate detailed order of even date application for amendment of charge is dismissed. Adjourned on 17.11.2017 for Pws.

ANNOUNCED ON IN THE COURT OF

Lavleen Sandhu(PCS),
JMIC/Pathankot/UID No.0506

Date of Order: 07.11.2017

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