

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2014.12.29 15:47
I attest to the accuracy and
authenticity of this document

CRM No. M-44241 of 2014 (O/M)
Date of decision : 24.12.2014

Kulwinder Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.K. Khunger, Advocate, for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH, J. (ORAL)

Impugned in the present petition is the order dated 9.9.2014 (Annexure-P-4), passed by the learned Additional Sessions Judge, Fazilka, vide which the revision filed by the private respondents, namely, Joginder Singh, Kailash Rani and Soma Rani, who happens to be brother-in-law (Jeth), sister-in-law (Jethani) and sister-in-law (Nanad) respectively of the complainant, was allowed and their summoning under Section 319 Cr.P.C. by the learned Sub Divisional Judicial Magistrate, Jalalabad (West), vide order dated 23.4.2012 (Annexure-P-3), was set aside.

Suffice to say that the complainant had lodged FIR No. 145 dated 7.8.2010 registered under Sections 406, 498-A IPC at Police Station Jalalbad Sadar, District Ferozepur, in which the

private respondents No. 2 to 4 were found innocent. However, during the trial, the prosecution moved an application under Section 319 Cr.P.C. The learned Sub Divisional Judicial Magistrate, Jalalabad (West) found that they have been named in the said FIR and specific allegations have been attributed to them by the complainant, while appearing as PW1.

While examining the impugned order, the learned Additional Sessions Judge, Fazilka, has come to the conclusion that the powers conferred under Section 319 Cr.P.C. are extra ordinary powers and should be used very sparingly and only for the compelling reasons. In this case, the private respondents, who were sought to be summoned as additional accused, are the relations of the husband of the complainant. Joginder Singh, brother of husband of complainant (Jeth), Kailash Rani is Jethani (respondent) and Soma Rani (respondent No. 4) is the unmarried sister-in-law of the complainant. It is not the law that whatever is stated by the complainant is to be taken as gospel truth for the purpose of Section 319 Cr.P.C. There is a growing tendency to rope in all the family members in cases registered under Sections 406, 498-A IPC. The respondents No. 2 to 4 were found innocent during the investigation. Apparently, the possibility of exaggeration of allegations levelled against them is there. Therefore, I do not find any fault in the order dated 9.9.2014 (Annexure-P-4), passed by the learned Additional Sessions Judge, Fazilka, which is perfectly in accordance with law.

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The present petition is accordingly dismissed.

(KULDIP SINGH)
JUDGE

24.12.2014
sjks