

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-29665 of 2015
Date of Decision : 3.9.2015

Kulwinder KaurPetitioner

Vs.

State of Punjab and othersRespondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Ajay Pal Singh Rehan, Advocate for the petitioner.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Petitioner by way of instant petition under Section 482 Cr.P.C., prays for quashing of the order dated 30.7.2014 (Annexure P-4) passed by the learned Additional Chief Judicial Magistrate, Gurdaspur, under Section 319 Cr.P.C. and also the revisional order dated 21.7.2015 (Annexure P-5) passed by the learned Additional Sessions Judge, Gurdaspur, whereby revision filed by the petitioner was dismissed and the order passed by the learned Additional Chief Judicial MagistrAte, Gurdaspur, was upheld.

Learned counsel for the petitioner submits that the learned courts below have misdirected themselves, while dismissing the application of the petitioner under Section 319 Cr.P.C. He submits that there was sufficient evidence available on record, so as to enable the learned Magistrate to allow

the application under Section 319 Cr.P.C. However, the learned courts below have proceeded on wholly misconceived approach, while ignoring the material aspect of the matter that the four persons, who were sought to be summoned with the aid of Section 319 Cr.P.C., had played active role in the commission of offence alleged against them. He also submits that when the FIR and the MLR are put together and read jointly, a clear cut case was made out in favour of the petitioner and against her two Sisters-in-law and two Brothers-in-law. He prays for setting aside the impugned orders, by allowing the present petition.

Having heard learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that in the peculiar facts and circumstances of the case, present one has not been found to be a fit case, warranting interference at the hands of this court, while exercising its inherent jurisdiction under Section 482 Cr.P.C., for the following more than one reasons.

A bare combined reading of both the impugned orders would show that the learned courts below have discussed each and every relevant aspect of the matter before arriving at their respective judicious conclusions. The learned courts below were well aware about the latest law on the subject laid down by the Constitution Bench of the Hon'ble Supreme Court in **Hardeep Singh Vs. State of Punjab**) 2014(3) SCC 92. The argument raised by learned counsel for the petitioner that the requirement of law for allowing an application under Section 319 Cr.P.C., was only a prima facie case, is only to be noted to be rejected, it being contrary to the law laid down by the Hon'ble Supreme court in **Hardeep singh's case supra**. Having said that, this

court feels no hesitation to conclude that the learned courts below committed no error of law, while passing their respective impugned orders and the same deserve to be upheld.

It is a matter of record that husband, father-in-law as well as mother-in-law of the petitioner are already facing criminal trial. She wanted to implicate her married Sister-in-law, as well as husband of married Sister-in-law, besides brother of her husband as well as the wife of brother of her husband. It has again come on record in the present case that the complainant in such kind of cases tried to implicate maximum members of the family of the husband, including the distant relatives. This attempt which has been made by the petitioner speaks volumes about it that she wanted to misuse the process of court, so as to implicate more and more members of the family of her husband. She is not ready to spare even her married Sister-in-law as well as her husband.

Further, allegations levelled by the petitioner have already been tested at three stages and found without any substance. Firstly, the investigating agency did not find any incriminating material against the above said four persons sought to be summoned as additional accused with the aid of section 319 Cr.P.C. Thereafter, the learned trial court did not find any substance in the allegations levelled by the petitioner and her application under Section 319 Cr.P.C., was dismissed. Again, the learned revisional court re-examined the allegations, but the petitioner failed to substantiate any of the allegations against the above said four persons and her revision petition was also dismissed by the learned Additional Sessions Judge. Still not satisfied, petitioner has approached this court by way of this petition. None of the impugned orders passed by the learned courts below has been found to be

without jurisdiction and the same deserve to be upheld, for this reason also.

Even after a careful examination of the allegations levelled by the petitioner in the FIR as well as the contents of MLR would not make out any case against the above said four persons sought to be summoned as additional accused to face criminal trial. In such a situation, it can be safely concluded that the learned courts below have appreciated the true facts as well as the relevant principles of law in the correct perspective, while passing their respective impugned orders and the same deserve to be upheld for this reason, as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the considered opinion that the present petition is wholly misconceived, bereft of merit and without any substance, thus it must fail. No case for interference is made out.

Resultantly, with the above said observations, instant petition stands dismissed, however, with no order as to costs.

3.9.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE