

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM M- 40484 of 2013

Date of decision : 03.03.2015

Bhagwan Dass

....Petitioner

V/s

State of Haryana

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rajesh Garg, Advocate for
Mr. Rakesh Dhiman, Advocate for the petitioner.

Mr. Pawan Jhanda, AAG Haryana.

None for respondent no. 2.

RAJAN GUPTA J.

In this petition filed under section 482 Cr.P.C., petitioner has impugned orders, Annexure P5 & P7 whereby warrants has been issued seeking appearance of the petitioner before the court.

Learned counsel for the petitioner submits that name of the petitioner did not figure in the FIR. During trial, mother of the prosecutrix appeared before the court and named one P.K. as accused. Trial court thereafter summoned three accused under section 319 Cr.P.C. He submits that petitioner is not the same person as named by mother of the accused. Thus, warrants have been wrongly issued in his name.

Learned State counsel has opposed the plea. According to him, petitioner P.K. @ Bhagwan Dass is the same person as named by PW-10 in her statement before the trial court.

I have heard learned counsel for the parties.

On the statement of Pooja, daughter of Nanu Ram aged 16 years, an FIR was lodged at police station City Dadri under sections 376(2)(g)/120-B/506/34 IPC and Prevention of Children from Sexual Offences Act, 2012. Investigating agency completed the investigation and submitted challan against four persons. Statement of the prosecutrix was recorded on 03.05.2013. According to record she tried to commit suicide and later died on 13.07.2013. Her mother namely Geeta stepped into the witness box as PW10 and stated that three other persons namely Happy, P.K. and Pardeep were also involved in the crime. They were called on the spot by Sonu @ Mama and Rohit @ Golu. Thereafter, all of them committed gang rape upon her daughter. She further stated that her daughter had not named these accused earlier as she was under pressure and was being continuously harassed by Happy, P.K., Pardeep and another boy. An application was also moved by father of the prosecutrix before Superintendent of Police, Bhiwani for taking action against Happy, Pardeep and P.K. Similar application was also moved by Geeta Devi, PW10. A copy was also sent to the National Commission for Women, New Delhi. Trial court was convinced that there was sufficient material to summon all the three as additional accused to face trial. It, thus, directed their summoning in exercise of power under section 319 Cr.P.C. As correct address of P.K. was not furnished earlier, an application, Annexure P6 was moved giving correct address of P.K. as P.K. @ Bhagwan Dass S/o Rameshwar Saini @ Raju R/o Ravi Dass Basti, Ward No. 12, Badwana Gate, Charkhi Dadri (Bhiwani). The court, thus, issued warrant for production of the petitioner. Stand of the petitioner is that he does not pose a challenge to the order passed

under section 319 Cr.P.C. but only to the warrants issued by the court as petitioner is not the same person as stated by PW-10. However, learned State counsel has disputed this fact. He has submitted that petitioner is the person who was named by mother of the prosecutrix.

Under the circumstances, no ground is made out to interfere in inherent jurisdiction of this court. In view of order passed under section 319 Cr.P.C. warrants in the name of the petitioner have been rightly issued by the trial court. Petition is hereby dismissed. Superintendent of Police, Bhiwani to ensure execution of warrants within a week from today.

A copy of this order be handed-over to learned State counsel under the signatures of Bench Secretary and copy be also forwarded to the trial court by fax.

March 03, 2015

Ajay

(RAJAN GUPTA)
JUDGE