

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

**CRR NO. 572 OF 2015 (O&M)
DECIDED ON : 20.02.2015**

Pargat Singh and others

...Petitioners

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. M. S. Rakkar, Senior Advocate with
Mr. J. S. Virk, Advocate,
for the petitioners.

K. C. PURI, J. (ORAL)

Challenge in this revision petition is to the order dated 19.01.2015 passed by Smt Jatinder Kaur, Additional Sessions Judge, Patiala, vide which the present petitioners have been summoned under Section 319 Cr.P.C to stand trial in respect of FIR No. 93 dated 05.07.2014 under Section 376 Indian Penal Code (in short "the IPC") Police Station Julkan.

Briefly stated, the law was set in motion by recording the above said FIR in which the prosecutrix aged about 17 years has stated that she is resident of Shadipur Police Station Julkan. She has passed 10+1. They are three sisters and brothers. Her mother Sarbjit Kaur do household work. On 13.06.2014 she was

alone at home. Her father is running a shop of wood at Bhunerheri and had gone and her mother had also gone to Bhunerheri to get medicine. Her brothers had also gone at the shop with her father at Bhunerheri. Her neighbours had gone for their work. It was about 12/12- ½ noon. Sinder Kaur w/o Balwinder Singh came to her house at shop. She had her young son with her and she said that she had to purchase goods from the shop. After going to the shop, the prosecutrix gave goods to Sinder Kaur and when the prosecutrix came back to her room in the house, she found Dilbag Singh @ Baga, Pargat Singh s/o Gurdev Singh and Gopi, sitting in the room. When the prosecutrix entered the room, Gopi caught her from the arms and other started acting wrongly (ashleel) and Gopi did wrongly (ashleel) with her. She at once ran and came out and started raising alarm. Then the above said persons ran away after threatening that in case the prosecutrix will raise alarm about it then her brothers and father will be murdered. Out of fear she did not speak. She later on disclosed everything to her family members.

The present petitioners during investigation were declared innocent. However, the prosecution after examining the prosecutrix, moved an application under Section 319 Cr.P.C for summoning the petitioners. The said application was allowed and the said order has been impugned in the present petition.

Learned counsel for the petitioners has submitted that in the FIR mere presence of petitioners has been mentioned

whereas while appearing in the court as prosecution witness, the prosecutrix has deposed that when she came to her room, Gopi, Dilbag Singh @ Baga and Pargat Singh were sitting there. Pargat Singh is the son of aunt (massi) of Gopi. When she entered the room, Bagga caught hold of her arm and Pargat gagged her mouth by placing his hand on her mouth. Pargat and Bagga threw her on bed. Thereafter, Gopi disrobed himself and the prosecutrix and committed rape upon her. She further deposed that while leaving her house, all the three persons threatened her that in case the occurrence is disclosed to anyone, she, her brothers and her parents will be eliminated. She further deposed that thereafter Ginder Kaur came to her house and threatened her not to disclose anything to her parents or any one else otherwise she along with her family will be eliminated and thereafter Ginder Kaur left.

Learned counsel for the petitioners has submitted that summoning of an accused under Section 319 Cr.P.C is a serious matter and the court should cautiously invoke the said provision. Earlier, the petitioners were declared innocent and as such, the learned trial court has committed grave error by allowing the application under Section 319 Cr.P.C without recording the findings that there are sufficient grounds to proceed against the petitioners.

I have considered the said submissions but do not find any force in the same.

From the perusal of FIR as well as statement of prosecutrix in the court, it is revealed that there are allegations of rape against Gopi and the allegations against remaining accused are of active connivance with the main accused Gopi. It is settled law that in case the court reaches to the conclusion that the persons sought to be summoned as additional accused should be tried along with other accused who are already facing trial in that case the application under Section 319 Cr.P.C can be allowed. In the present case, learned trial court has exercised the discretion by going through the record of FIR as well as statement of prosecutrix made in the court.

So, in view of the above, no ground for interference by this court is made out. Consequently, the revision petition is without any merit and the same stands dismissed.

FEBRUARY 20, 2015
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(K. C. PURI)
JUDGE