

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc.-M-11184 of 2016

Date of Decision: 15.7.2016

Monika

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sumit Gupta, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

1. This petition has been filed under Section 482 Cr.P.C. challenging the order dated 1.8.2015 vide which the application filed by the complainant under Section 319 Cr.P.C. has been dismissed.

2. Monika was married to Sachin in 2009. An FIR was got registered in May 2013. Besides making accusation against the husband, the complainant accused the mother-in-law of snatching the chain. She accused the *Jeth* of giving her kick blows which led to a miscarriage. It was asserted that her parents and brother took her to Baba Sahib Ambedkar Hospital for treatment. The MLR number was given in the FIR.

3. The police investigated the case and filed the challan only against the husband. The trial had commenced and statement of the complainant was recorded and thereafter an application under Section 319 Cr.P.C. was moved for summoning three additional accused namely the brother-in-law, sister-in-law and mother-in-law. The trial Court dismissed

the application. A revision was preferred before the Additional Sessions Judge and was dismissed on 9.12.2015.

4. The Revisional Court examined the MLR which was referred in the First Information Report and noted the following:-

“Marriage of complainant with accused Sachin took place on 9.12.2009. The allegation of complainant qua demand of dowry are general and vague, without any specific time and date as to when and by whom what demand of dowry was made. Regarding allegation qua beatings except incident of 10.3.2013, there is no medical evidence on record to connect the above-said persons. As per MLR dated 11.3.2013 of Bhim Rao Ambedkar Hospital and the alleged history of assault is given by complainant herself and she disclosed the same was given by her husband, who has already been facing trial. There is nothing on these medical reports against other respondents qua allegations of terminating her pregnancy. Further, as per the allegations levelled by the complainant in her complaint as well as sworn testimony, the complainant was got admitted on 10.3.2013 by her father in Baba Bhim Rao Ambedkar Hospital, Rohini, Delhi and doctor told her that her pregnancy was terminated and thereafter her father took her to Aggarwal Hospital, Ganaur where she was treated for two days. However, from the perusal of file, it reveals that Dr. Naresh Chander of Baba Bhim Rao Ambedkar Hospital, Rohini, Delhi had given his opinion vide his letter NO. F7(17)2012/BSAH/MRD/13031 dated 16.7.2013 to the effect

“patient Monika MLC NO. 2448/13, Regn. No. 23604/2013 was examined on 11.3.2013 at 8.40 A.M. She was giving alleged history of spotting her vaginum after alleged physical assault but she had denied for perabdominal, perspeculem and pervaginal examination, she was advised UPT a& USG for foetal well being but she did not get admitted and did not turn up with the report.” Thus, from the above facts and circumstances, it appears that at the most the complainant has levelled the allegation of aborting her child qua her husband Sachin only and not against respondents No. 2 to 5. In her allegations qua respondent No. 5, the complainant has stated in her testimony that she has filed complaint case against him. Also otherwise, he cannot be tried together with accused Sachin.”

5. Both the Courts below had examined the documents and the evidence and had found that it was not a fit case to invoke the provisions of Section 319 Cr.P.C.

6. The power under Section 319 Cr.P.C. is an extra-ordinary power and has to be sparingly exercised only in those cases where the circumstances of the cases warrant. The additional accused can be summoned only when there is strong and cogent evidence. The power cannot be exercised in a casual and cavalier manner.

7. There is no merit in the revision and is dismissed.

**(ANITA CHAUDHRY)
JUDGE**

**July 15, 2016
Gurpreet**