

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

CRM-M-2269-2013

Date of decision: 20.10.2016

Sukhjit Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Harpreet S. Rakhra, Advocate,
for the petitioner.

Mr. J.S. Riar, AAG, Punjab.

Mr. Deepak Aggarwal, Avocate,
for respondent Nos. 2 and 3.

Ritu Bahri, J.

This petition under Section 482 Cr.P.C. is for quashing the order dated 19.12.2012 (Annexure P-8) passed by the Sessions Judge, Bathinda, whereby order dated 28.03.2012 (Annexure P-7) passed by the Additional Chief Judicial Magistrate, Bathinda, summoning the private respondents under Section 319 Cr.P.C., has been set aside.

Sukhjit Kaur-petitioner got registered FIR No.30 dated 15.03.2010, under Sections 498-A, 325, 323 IPC, registered at Police Station, Sadar Bathinda, District Bathinda (Annexure P-1), against her husband Jagsir Singh and the private respondents, who are mother-in-law, brother-in-law (*devar*), sister-in-law (*nanad*) and brother of father-in-law of complainant. In the FIR, it has been alleged that her marriage was

solemnized about 15 years ago with Jagsir Singh son of Mukhtiar Singh, resident of village Chughe Kalan. Out of this wedlock, no child was born. On the day of occurrence, she was beaten up by her husband and in-laws as she failed to fulfill their demand of Rs.15 lacs in cash and a car. In this regard, copy of MLR is attached as Annexure P-2. In this background, the FIR was registered.

On completion of investigation, challan was presented only against husband of the complainant and the remaining accused namely Gurmel Kaur, Binder Singh, Chhinder Kaur and Karnail Singh were found to be innocent and were placed in column No.2 of the report under Section 173 Cr.P.C. After presentation of challan, charges were framed. Thereafter, the prosecution examined Dr. D.P. Bansal, Medical Officer, CHC, Mehraj as PW-1 and Dr. M.S. Brar, Medical Officer, Civil Hospital, Bathinda as PW-2. Both these witnesses have proved the MLR and the injuries on the person of complainant-petitioner. Their statements have been annexed as Annexures P-3 and P-4 respectively. Complainant-petitioner was examined as PW-3 (Annexure P-5). After examination of the complainant, prosecution moved an application (Annexure P-6) under Section 319 Cr.P.C. for summoning the private respondents, which was allowed by the trial Court vide order dated 28.03.2012 (Annexure P-7). The aforesaid application was allowed by observing that the complainant has attributed specific role to Binder Singh son of Karnail Singh, who pushed her and to Karnail Singh, who allegedly gave injuries to the complainant with *thappa*. Shinder Kaur, cousin of her husband, also joined the other accused persons while giving beatings to her.

Aggrieved by the aforesaid order, the private respondents filed a

revision before the Sessions Judge, Bathina, which has been allowed vide order dated 19.12.2012 (Annexure P-8) and the summoning order dated 28.03.2012 (Annexure P-7) has been set aside on the ground that the allegations of demand of dowry would not benefit any of the accused, who have been sought to be summoned by filing an application under Section 319 Cr.P.C. The complainant had made lot of improvements in her statement at the time of her examination before the Court.

Learned counsel for the petitioner has referred to the deposition made by Dr. D.P.Bansal, Medical Officer (PW-1), Dr. M.S. Brar, Medical Officer (PW-2), who corroborated the injuries on the person of injured-complainant. Both these doctors had examined the complainant. Their statements have been annexed with this petition as Annexures P-3 and P-4 respectively. Learned counsel has contended that a perusal of their testimonies shows that complainant-petitioner was medically examined on 21.02.2010 in the emergency ward of Civil Hospital, Bathinda. As per opinion of the doctors, injury No.3 was grievous, whereas injuries Nos. 2, 4 and 5 were simple in nature. Injury No.3 is reproduced as under:-

“(iii) Complaining of pain and tenderness of right foot was present. Advised x-ray. No visible mark of external injury was present.”

In their cross-examination, the doctors had stated that this injury can be possible if, a person falls on the road by slipping. Further, as per deposition of PW-2 Dr. M.S. Brar (Annexure P-4), the complainant was advised visual acuity and fundus examination. A perusal of the statements made by both the doctors shows that all the injuries suffered by the complainant were simple in nature. As per deposition made by the complainant while appearing as PW-3 (Annexure P-5), her husband had

given blows of *soti*, which hit on her eye and neck. The injury attributed to Gurmail Kaur (mother-in-law) was that she had given a *phookni* blow on her right foot. At the same time, Binder Singh son of Karnail Singh pushed and hit her against a pillar, as a result of which, her teeth were broken. Karnail Singh gave a *thapa* blow, which hit on her back.

Learned counsel for the petitioner has argued that as per deposition of complainant (PW-3) and medical record produced by Dr. D.P. Bansal (PW-1), Dr. M.S. Brar (PW-2), the role attributed to each of the accused, who are sought to be summoned, stands corroborated.

Heard, counsel for the parties.

The question of consideration would be, as to whether the additional accused could be summoned to face trial merely on account of the deposition made by the complainant while appearing as PW-3.

Except injury No.3, rest of the injuries suffered by the complainant were simple in nature and possibility of injury No.3, which is declared as grievous in nature, being suffered on account of slipping or falling on the road could not be ruled out as per the depositions made by the doctors while appearing as PW-1 and PW-2. Hence, apart from the deposition of complainant-petitioner (PW-3), there is no evidence to show that the accused (private respondents) had committed the offences, for which, they are sought to be tried. Under Section 319 Cr.P.C., the accused has to be summoned sparingly and only, if there is more than a prima facie evidence available on record against the accused.

In the present case, apart from the deposition of complainant-petitioner (PW-3), there is no evidence to show that private respondents, who are being sought to be summoned, had participated in the occurrence

while giving beatings to the complainant. Moreover, the marriage of complainant was solemnized with Jagsir Singh about 15 years back and in a dispute between husband and wife, all the family members of husband-Jagsir Singh have been booked in. The challan had been rightly presented against husband of the complainant, who is facing trial.

After going through the impugned order, no illegality, much less perversity, has been found therein warranting interference by this Court.

Resultantly, the present petition stands dismissed.

20.10.2016
ajp

(RITU BAHRI)
JUDGE

speaking/non-speaking : Yes/No
Reportable : Yes/No