

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27080 of 2016
DECIDED ON: August 08, 2016

SOMOTI

.....PETITIONER..

VERSUS

STATE OF HARYANA

....RESPONDENT..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. K.L. Saini, Advocate,
for the petitioner.

JASPAL SINGH, J.

By virtue of instant petition preferred under Section 482 Cr.P.C., the petitioner has sought quashing/setting aside of order dated 01.06.2016 passed by ld. Sessions Judge, Palwal vide which an application under Section 319 Cr.P.C. has been allowed and the petitioner has been summoned to stand trial as an additional accused.

2. Learned counsel for the petitioner contends that after the registration of FIR in question, the matter was thoroughly investigated. During investigation, the petitioner was found innocent and while filing the report under Section 173 (2) Cr.P.C. her name was mentioned in column No.2. While disposing of application under Section 319 Cr.P.C., ld. trial court did not appreciate the statements of children of the deceased i.e. Priti and Khiladi, who have specifically stated that their mother herself set on fire after pouring kerosene oil on her feet. It has also been specifically stated by them that at the time their grand-mother i.e. the petitioner was in a different house as she has

been living separately since long. Even otherwise from the facts and circumstances of the case, no prima facie case is made out against the petitioner whereas more than prima facie case was required to be made out for allowing the application under Section 319 Cr.P.C. Since, the petitioner, who is aged about 69 years is living in a separate house since long having her separate ration card and aadhar card, has nothing to do with the instant incident. Application under Section 319 Cr.P.C. has also been filed by prosecution after the closure of evidence by the prosecution and the recording of the statement of the accused under Section 313 Cr.P.C. i.e. at a belated stage.

3. This Court has given a deep thought to the various submissions made by learned counsel for the petitioner besides scrutinizing the impugned order.

4. No doubt, an application under Section 319 Cr.P.C. has been filed after the recording the statement of accused under Section 313 Cr.P.C. but on that ground, application cannot be dismissed, especially, in the circumstances that specific role has been attributed to the petitioner. Smt. Babita, who was lying admitted in Safdarjang Hospital, Delhi due to the sustaining of burns has categorically alleged that on 04.02.2015 at about 7 a.m., her mother-in-law Smt. Somoti (petitioner) started hurling abuses to her and when she was asked to desist her from doing so, she started giving beatings by picking up a danda. Thereafter, her husband-Narain Singh came out of the toilet, who also joined her and started giving beatings to her by extorting as to why she was daring to speak in front of his mother. In the meanwhile, her mother-in-law brought a bottle of kerosene and sprinkled it over her body whereas her husband lit a match-stick and threw towards her. Though, she tried to flee but was not allowed to do so by

her husband and mother-in-law. However, some neighbours attracted and put off/extinguished the fire. The statement recorded by the police, which is the basis of FIR is in the shape of dying declaration and in view of the dying declaration, the testimonies of the children pales into in significance at the stage of summoning of accused under Section 319 Cr.P.C. Moreover, no illegality, infirmity or impropriety could be pointed by learned counsel for the petitioner in the impugned order, during the course of arguments.

5. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, the same is dismissed.

August 08, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*