

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-3134 of 2015

.....

Date of decision:29.2.2016

Surswati

...Petitioner

v.

State of Haryana and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. S.S. Sahu, Advocate for the petitioner.

Mr. D.R. Singla, Deputy Advocate General, Haryana for the respondent-State.

Mr. Vikas Sharma, Advocate for respondent No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 18.11.2014 (Annexure-P.4) passed by learned Additional sessions Judge, Fatehabad and the order dated 7.2.2014 (Annexure-P.2) passed by learned Additional Chief Judicial Magistrate, Fatehabad, vide which the petitioner has been summoned under Section 319 Cr.P.C. as additional accused in case FIR No.77 dated 10.5.2012 registered for the offences under Sections 323, 452 and 341 IPC at Police Station Bhattu Kalan.

Notice of motion was issued in this case.

Mr. D.R. Singla, learned Deputy Advocate General, Haryana has put in appearance on behalf of the respondent-State and Mr. Vikas Sharma, learned Advocate has appeared for respondent No.2 and contested this petition.

I have heard learned counsel for the parties as well as learned Deputy Advocate General, Haryana and have gone through the record.

From the record, I find that an application under Section 319 Cr.P.C. was filed by the prosecution to summon Surswati wife of Jagdish. It is the case of the applicant that the complainant also implicated Surswati in commission of crime along with other accused. However, the Police has not filed final report against her.

In reply, the accused contested this application and stated that the name of Surswati has been wrongly mentioned by the complainant and during inquiry conducted by the Police, she was found innocent. The Court below after discussing the evidence on record found that PW-Anil Kumar-complainant has specifically stated that Surswati wife of Jagdish gave injury on his both shoulders. The Court below also held that a perusal of MLR of Anil placed on record reveals that the injured had received injury on his left shoulder which has been allegedly attributed to be given by Surswati. The Court below further held that a perusal of the report under Section 173 Cr.P.C. nowhere reveals the basis on which the Investigating Officer came to the conclusion that Surswati was not involved in the commission of the offence.

I have gone through the impugned order passed by the learned

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Additional Chief Judicial Magistrate, Fatehabad dated 7.2.2014 and the order dated 18.11.2014 passed by the learned Additional Sessions Judge, Fatehabad. The orders passed by the Courts below are correct as per evidence and law which cannot be held that these are against the law or amount to miscarriage of justice. Even in the FIR the complainant/injured has stated that Surswati was with the other accused, who are facing the trial and she was armed with 'Danda' and she also gave injuries on the shoulder of injured complainant Anil. The learned Additional Sessions Judge has also discussed the injuries in para No.10 of the judgment dated 18.11.2014.

Keeping in view the reasoning given by the Courts below and in view of the evidence on record, it appears that the present petitioner is involved in the commission of the offence and she should be tried together along with the accused already challaned. Therefore, from the above, I find that no illegality has been committed by the Courts below and the impugned orders do not require any interference from this Court.

Therefore, finding no merit in this petition, the same is dismissed.

February 29, 2016.

(Inderjit Singh)
Judge

hsp