

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-31775 of 2015

.....

Date of decision:15.2.2016

Rohita

.....Petitioner

v.

State of Haryana and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Surender Lamba, Advocate for the petitioner.

Mr. Brijesh Sharma, Assistant Advocate General, Haryana for
the respondent-State.

Mr. S.S. Vema, Advocate for respondent No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of impugned order dated 15.12.2014 (Annexure-P.5) passed by learned Additional Chief Judicial Magistrate, Hisar, whereby personal appearance of respondent No.2 has been exempted permanently and also the impugned judgment dated 7.5.2015 (Annexure-P.7) passed by learned Additional Sessions Judge, Hisar, whereby the revision petition filed by the petitioner against the order dated 15.12.2014 has been dismissed.

Notice of motion was issued in this case.

Mr. Brijesh Sharma, learned Assistant Advocate General,

Haryana has put in appearance on behalf of the respondent-State and Mr.

S.S. Verma, learned Advocate has appeared for respondent No.2 and contested this petition.

I have heard learned counsel for the petitioner as well as learned Assistant Advocate General, Haryana and learned counsel for respondent No.2 and have gone through the record.

From the record, I find that in the FIR No.446 dated 1.5.2013 registered for the offences under Sections 498-A, 406 and 323 IPC at Police Station Sadar, Hisar, respondent No.2-Ritu alias Nitu has been summoned under Section 319 Cr.P.C. Respondent No.2, namely, Ritu alias Nitu filed application for personal exemption. She is sister-in-law of the complainant and married at Lucknow (U.P.), which is at a distance of 600 kms. from Hisar and residing with her husband Vijender. It is also the case that she had given birth to a male child on 18.7.2014 and she has to take care of her son being of young age.

The learned Additional Chief Judicial Magistrate, Hisar, after taking the reply and hearing arguments allowed this application in view of the totality of the circumstances subject to the following conditions:-

- “1. That she will not dispute her identity as the particular accused in this case.
2. That a counsel on her behalf will appear for her in the Court when the case is taken up; and
3. She herself will be present in the Court when her presence is imperatively needed.”

I have perused the impugned order passed by the learned Additional

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Chief Judicial Magistrate, Hisar, which is correct as per law and does not require any interference from this Court. In no way, this order and the order passed by the learned Additional Sessions Judge, Hisar, in revision can be held amounting to miscarriage of justice. The Court has already taken precaution and this permanent exemption has been granted subject to the conditions.

Keeping in view the fact that she is married sister-in-law of the complainant and residing with her husband at Lucknow, 600 kms. away from Hisar, and has a small child to be looked after by her, no illegality has been committed by the Courts below. The orders passed by the Courts below do not require any interference from this Court.

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

February 15, 2016.

(Inderjit Singh)
Judge

hsp