

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Crl. Rev. No. 1805 of 2015 (O&M)

Date of decision : October 18, 2016

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Krishna

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. D.S Nain, Advocate for
Mr. Vijay Singh Kajla, Advocate for the petitioner.

Mr. D.R Singla, DAG, Haryana.

Mr. R.K Saini, Advocate for respondents no. 2 to 4.

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RITU BAHRI, J.

The present revision petition has been filed against the order dated 22.4.2015 passed by the Additional Sessions Judge-Cum-Judge Special Court for Heinous Crime Against Women, Hisar whereby the application under Section 319 Cr.P.C for summoning of Ramesh son of Matu and Matu as additional accused was dismissed.

Briefly stated, the facts of the case are that on 24.8.2014 Krishna, aged 17 years had gone out of house to answer the call of nature.

Respondents no. 2 & 3 Ram Kumar and Ramesh, who were standing there

on a motorcycle took her forcibly along with them. At that time, respondent no.4 namely, Matu was also standing there. She was taken to an unknown Dhani in Village Kharkhari where in a room respondent no.2 Ram Kumar forcibly committed rape upon her 3-4 times and during this period respondent no.3 Ramesh remained standing outside the room. FIR (Annexure P-1) was registered under Sections 376/34 IPC and Sections 8/12 of The Protection of Children from Sexual Offences Act, 2012. The prosecutrix while appearing as PW-1 specifically deposed in her statement (Annexure P-2) that Ram Kumar and Ramesh both forcibly took her away on motorcycle and one person namely Matu was also standing there.

The complainant filed an application under Section 319 Cr.P.C for summoning respondents no. 3 & 4 i.e Ramesh and Matu as additional accused as there were specific allegations against both of them. The application under Section 319 Cr.P.C was dismissed by the trial Court keeping in view the fact that the proposed persons who had not been summoned had no role to play in the crime. It was held that the complainant had reiterated her averment of FIR in her testimony as PW-1 and self serving testimony of complainant cannot be held as sufficient evidence to establish the complicity of the proposed persons in the crime.

A perusal of the FIR shows that it was Ram Kumar who had forcibly committed rape upon the prosecutrix. It has been specifically stated in the FIR that Ram Kumar forcibly took the complainant on the road on foot and from near a canal they boarded a bus and reached at Railway Station Hisar. Ramesh had gone back from the field. The narration of the events in the FIR do not make out that the accused who are sought to be summoned i.e Ramesh son of Matu and Matu had any role to play in

committing the crime. During investigation, these two accused were rightly kept in column no.2 and as per the guidelines laid down by the Apex Court in a recent decision in the case of **Hardeep Singh vs. State of Punjab 2014 (1) RCR (Criminal) 623**, there is no evidence more than prima facie which has been left out by the investigating agencies at the time of presentation of the challan. The trial Court has rightly reached to a conclusion that the bare testimony of the prosecutrix PW-1 would not be sufficient to summon the accused to face a trial for an offence under Section 376 IPC. The prosecutrix in her evidence has attributed the act of committing rape upon her to Ram Kumar, who is facing trial.

In view of all that has been discussed above, the impugned order dated 22.4.2015 passed by the Additional Sessions Judge-Cum-Judge Special Court for Heinous Crime Against Women, Hisar does not require interference of this Court and the same is upheld. Hence, present revision petition is dismissed.

October 18, 2016

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**(RITU BAHRI)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

No