

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.1036 of 2016 (O&M)****Date of Decision: March 16, 2016**

Shanti

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jitender Dhanda Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Shanti against respondents State of Haryana, Nirmala Devi and Suraj Bhan, challenging the order dated 18.02.2016 passed by learned Addl. Sessions Judge, Hisar vide which the application under Section 319 Cr.P.C. filed by the complainant-petitioner was dismissed.

I have heard learned counsel for the petitioner and have gone through the record, especially the impugned order dated 18.02.2016.

The perusal of the record shows that an application under Section 319 Cr.P.C. was filed after part examination of PW-1 Shanti, complainant, for summoning Nirmala Devi and Suraj Bhan as additional accused. As per the impugned order, these persons are named in the FIR and while appearing as PW-1, complainant also

specifically named these persons. In reply by the accused to this application, it is stated that after the incident neither matter was reported to the police nor any FIR was lodged. The complainant has filed the complaint after about three months of the said incident, in which accused Indu Bala and Sukhbir only were summoned by learned trial Court on 30.10.2014 after recording preliminary evidence while no case was made out against proposed accused Nirmala Devi and Suraj Bhan. It is also stated in the reply that complainant did not challenge the said order dated 30.10.2014, which has attained finality.

I have gone through the complaint filed by the complainant. As per facts of the complaint, son of the complainant namely Ram Mehar was married with accused No.1 Indu Bala. It is stated in the complaint that after the death of husband of complainant namely Hawa Singh, accused No.1 was married with her son Ram Mehar and then a matrimonial dispute arose and accused No.1 wanted to get the land mutated in her name. It is also in the complaint that after some days of the marriage, accused No.2 and 4 came to their house and they also tried their best to transfer the land in the name of accused No.1 and put illegal pressure upon them. The marriage between Ram Mehar and accused No.1 took place on 25.03.2011. It is further stated in the month of October 2011, accused No.2 and 4 came to their house in the evening and asked them to transfer the half share of the land in the name of accused No.1 but when they refused to do that, scuffle took place. On that accused No.2 and 4 took accused No.1 along with them and on 14.10.2011,

accused No.1 came with her brother Jitender at complainant's house and her brother went back after leaving her. On 17.10.2011, accused No.3 Sukhbir came to their house and at night time, on the issue regarding transfer of land, again scuffle took place. At about 10.00 P.M. accused No.1 gave poison in milk to Ram Mehar. It is also in the complaint that Ram Mehar was taken to hospital at about 2 O'clock and he died in the hospital. It is also in the complaint that after 13th day, accused No.1 left for her parents' house. Then present complainant along with her daughter and her nephew, went to bring accused No.1 but she refused to come back.

In view of the averments in the complaint and in view of the preliminary evidence, the proposed accused were not summoned by the Court at initial stage and no revision was filed against that order and that order attained finality. Now, only the statement of the complainant has come on the record and there is no other evidence. The post mortem examination has not been got conducted nor there is any FSL report, as admitted at the time of arguments.

From the statement of the complainant PW-1 Shanti, it does not appear that respondents No.2 and 3 are involved in the commission of the offence and they should be summoned to be tried along with other accused already facing the trial. They were not present at the spot and there is nothing on the record to show that they, in any way, are involved in the commission of the offence, even, if it is presumed that they have also asked for the transfer of the land in the name of accused No.1 Indu Bala.

In view of the above discussion, I find that the impugned order dated 18.02.2016 passed by learned Addl. Sessions Judge, Hisar, is correct, as per evidence and law and do not require any interference from this Court.

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

March 16, 2016
Vgulati

(INDERJIT SINGH)
JUDGE