

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Rev. No. 2809 of 2015 (O&M)
Date of decision : 07.01.2016**

Manjinder Kaur

.....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. L.S. Sidhu, Advocate
for the petitioner.

ANITA CHAUDHRY, J.

CRM No.24597 of 2015

For the reasons set out in the application, same is allowed as prayed for and delay of 3 days in filing the present petition is condoned.

Crl. Rev. No. 2809 of 2015

This revision is directed against the order dated 24.04.2015, passed by the Additional Sessions Judge, Jalandhar who dismissed the application filed by the petitioner-complainant under Section 319 Cr.P.C.

Manjinder Kaur complainant had made a complaint to the police on 30.05.2013 (Annexure P-2) containing the allegations that she had got married to Amandeep and after four months there were problems and she had moved an application to the police and the Panchayat had assembled and a Panchayati divorce (Annexure P-1) took place. Thereafter, the husband filed a petition in the Court seeking restitution and

she started attending the Court proceedings and after three years the case filed by the husband was dismissed and thereafter, she filed a petition seeking divorce and on 30.05.2013, she had gone to the Court for the hearing when her husband asked her for compromise and suggested that they should sit together. She was made sit on a motorcycle and they moved towards Jalandhar to an unknown house. There was one another boy who accompanied them who also came there. Allegations were levelled that she was made to consume a drink and she fell giddy. At that point of time the other boy went out. After sometime her husband started committing obscene acts and sexually assaulted her and she raised alarm. The other boy came and when she wanted to leave, she was dragged and her phone was snatched. Her husband called the owner of the house and his wife. They also stopped her from going out. In the meantime, her brother alongwith his friend came, they went to the Police Station. It was alleged that the police did not lodge the FIR. The complainant was got medically examined. After the receipt of the Chemical Examiner, the FIR was registered in January, 2014. Challan was presented against Amandeep Singh and the trial has commenced. The complainant made her statement and thereafter filed an application under Section 319 Cr.P.C. for permission to summon Satnam Singh, Surjit Kaur and Karnail Singh under Section 319 Cr.P.C. The trial Court dismissed the application. Paragraph no.3 of the order reads as under:-

"I have gone through the file. In her statement before the police, the prosecutrix has nowhere alleged that any person met her or any person stopped or locked her in the room. She has not uttered even a single word in the court as to who are these persons. Even in her

complaint given before the police she has not named any person. Even the presence of any person has not been mentioned by her at the place where she was taken by the accused Amandeep Singh. She has nowhere attributed any overt act to any of the persons mentioned in her statement in the Court. In her earlier statement, she has nowhere referred the presence or role allegedly played by the accused persons. She has not described that how these persons are related to the accused nor any overt act was ever attributed to them. Thus, in such circumstances, her statement in the court naming these persons seems to be after thought. Thus, there is no merit in the application. Accordingly, the present application under Section 319 Cr.P.C. is dismissed. Now PWs be summoned for 06.05.2015. Notice be issued to the SHO concerned/incharge Tamili Staff directing them to depute special messenger to effect service of PWs and ensure their presence in Court on next date. Considering the number of cases already fixed in between, present case is adjourned to 06.05.2015.”

I have heard the counsel for the petitioner at length and have perused the record and I find no merit in the petition.

The petitioner had indulged in exaggerations. The trial Court had exhaustively dealt with the matter and had found that the statement made in the Court was an afterthought. In the first statement, no overt act was attributed to any person.

In ***Babubhai Bhimabhai Bokhiria and another Vs. State of Gujarat and others, 2014(2) RCR (Crl.) 915***, it has been held by the Hon'ble Apex Court of India as under:-

“A Criminal Procedure Code Section 319, Summoning of a person as additional accused under Section 319 Cr.P.C. A person be summoned only where strong and cogent evidence occurs against a person from the evidence led before the court. The test that has to be applied is one which is more than prima facie case as exercise at the time of framing of charge.”

Applying the tests, I find that there were no grounds to summon the additional accused. The application was rightly dismissed.

The petition is dismissed in limine.

07.01.2016

sunil

**(ANITA CHAUDHRY)
JUDGE**