

In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 2440 of 2016

Date of Decision: 12.7.2016

Harpreet Kaur

.....Petitioner

Versus

Gurpal Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. D.S.Bali, Senior Advocate with
Ms. Jaspreet Kaur, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

1. This revision is directed against the order dated 17.5.2016 passed by the Additional Sessions Judge, Fazilka who dismissed the application under Section 319 Cr.P.C. The trial Court refused to summon Gurpal Singh and Harjit Kaur as additional accused.

2. It would be necessary to give the brief facts. The petitioner got an FIR lodged in September 2014 and disclosed that she was a student in the year 2010-11 and used to travel by bus everyday. She came in contact with Bhupinder Singh a co-villager. They started meeting and he expressed his feelings for her and pursued her. The complainant resisted the overtures but he did not desist and used to call her up. The association continued. The complainant alleged that she fell into the trap and one day, a cold drink was offered to her. She felt dizzy and the accused took advantage and raped her and threatened to defame her. Even after this the association continued and he offered marriage. The complainant had by then completed her Masters in

Computer Science and was looking for a job. The complainant had gone to

Panchkula to appear in the competitive examination in November 2011. The accused persuaded the complainant to stay in a hotel with him. The complainant had alleged that accused sexually exploited her. Allegation was also levelled that the accused promised marriage but he kept on postponing the marriage on the pretext that he was not having a job. Allegation was also made that the accused made a phone call to her paternal aunt namely Harjit Kaur, a resident of Ganganagar, who assured that she would convince her cousin to agree to the marriage. The complainant and the accused continued to maintain their physical relations and visited different places from 2011 to July 2014. The complainant had given the details of the places they had visited and the hotels they had stayed. In June 2014, the accused told the complainant that his parents were not willing for the marriage and they would perform Court marriage and take protection from the Court but thereafter he switched off the mobile and did not contact her. A panchayat was held and the accused refused to marry her.

3. The police filed the challan only against Bhupinder Singh. The trial had commenced. After the statement of the prosecutrix was recorded, an application under Section 319 Cr.P.C. was filed and the complainant wanted Gurpal Singh and Harjit Kaur to be summoned as additional accused.

4. The trial Court after hearing both the sides dismissed the application on 17.5.2016.

5. Aggrieved with the order, complainant has filed this revision.

6. Heard. Counsel for the petitioner contends that the complainant had named two additional persons in her complaint to the police and these two had assured the complainant that they would get the marriage

performed and they should also be summoned as additional accused and face trial along with Bhupinder Singh. It is urged that the Court has ignored the principles laid down in *Hardeep Singh versus State of Punjab and others 2014(1) R.C.R. (Criminal)623*.

7. I have gone through the statement made by the prosecutrix and I find no merit in this revision. The complainant had alleged that the aunt of Bhupinder Singh and one of his uncles had assured that the marriage would be performed and they had been speaking to her on telephone. Neither the FIR nor in the statement made by the complainant she has given any details of the conversations. The allegations are vague. It appears that the additional persons had been named only with a view to widen the net.

8. The power under Section 319 Cr.P.C. is an extra-ordinary power and has to be sparingly exercised only in those cases where the circumstances of the cases warrant. The additional accused can be summoned only when there is strong and cogent evidence. The power cannot be exercised in a casual and cavalier manner.

9. In the present case, there is absolutely no evidence which can even show prima facie complicity of the persons additionally named.

10. There is no merit in the revision and is dismissed.

(ANITA CHAUDHRY)
JUDGE

July 12, 2016
Gurpreet