

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 2729 of 2016

Date of decision : 04.08.2016

Pooja

... Petitioner

versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Suresh Kumar Kaushik, Advocate
for the petitioner

ANITA CHAUDHRY, J.(ORAL)

This revision is directed against the order dated 22.07.2016 passed by Addl. Sessions Judge, Hisar vide which the application under Section 319 Cr.P.C. has been dismissed. It would be necessary to give few facts. The prosecutrix made allegations in the FIR that at 8.00 p.m. on 13.02.2016 when she went to close the gate of her house Manoj came and told her that she had been called by her aunt Suresh. The prosecutrix went along with him. The aunt was present with her son Lallu. The aunt asked her to remain with Manoj and went to the upper portion of house with her son. In the meantime, Manoj closed the main gate of his house and gagged her mouth and ravished her. The FIR was lodged on 20.02.2016. The police investigated the case and filed the challan only against Manoj. The trial had commenced and the statement of the victim had been recorded. An application under Section 319 Cr.P.C. was moved and the summoning of Suresh and Ramjit @ Lallu was sought. The trial Court dismissed the application. Against that order, this revision petition has been filed.

I have heard learned counsel for the petitioner.

The incident alleged to have taken place on 13.02.2016. The prosecutrix was at home her parents were also at home. The allegations are

that Manoj came and took the girl away to his house where his aunt and her son were present. After a while her aunt alongwith his son went to the upper portion of house and Manoj gagged her mouth and ravished her. The prosecutrix did not narrat the incident to her parents. She narrated the incident to her family on 20.02.2016 and the complaint was lodged. The allegations are that there was a criminal conspiracy between the three and the girl had been taken by the accused so that rape could be committed on the victim. The trial Court considered the provisions of law and the observations made by the High Court from time to time and found that it was not a fit case for summoning the additional accused.

In *Harpreet Singh vs. State of Punjab and others, 2014(1) RCR(Criminal) 623* the Apex Court has laid down parameters for summoning additional accused. 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 case so 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. In the present case, there is absolutely no evidence which can even prima facie show the complicity of the persons additionally named. I find no infirmity in the order passed by the Court below.

The petition is dismissed.

August 04, 2016
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(ANITA CHAUDHRY)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No