

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

**Crl. Revision No. 2740 of 2016**

**Date of decision : 04.08.2016**

**Amar Kumar**

**... Petitioner**

**versus**

**State of Punjab and another**

**... Respondents**

**CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Parminder Singh-I, Advocate  
for the petitioner

**ANITA CHAUDHRY, J.(ORAL)**

This revision is directed against the order dated 25.05.2016 passed by Addl. Sessions Judge, Ludhiana 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 11.00 a.m. on 07.06.2014 her neighbourer Seetu came and took her to the house of the accused where Gurtej Singh @ Goldi - brother of Paramjit Kaur @ Seetu was present. After some time Seetu left the house. The allegations are that Gurtej committed rape upon the prosecutrix. The FIR was lodged on 12.06.2014. The police investigated the case and filed the challan against Gurtej. 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 Paramjit Kaur @ Seetu 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 is alleged to have taken place on 07.06.2014. The prosecutrix was at home her grand mother and her aunt were also present. The allegations are that Seetu came and took the girl away to her house where Gurtej was present. After a while Seetu left the house and Gurtej took her forcibly in the room and committed rape. The prosecutrix wore her clothes and was crying.

The prosecutrix did not narrate the incident to her parents out of fear. She narrated the incident to her family on 12.06.214 when the complaint was lodged. The allegations are that there was a criminal conspiracy between the two and the girl had been taken by the sister so that rape could be committed on the victim. The trial Court noted that during the investigation it had appeared that Paramjit Kaur @ Seetu was not present at home from 9.30 a.m. to 2.00 p.m. and was found innocent. 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 as to when an additional accused can be summoned. 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 sister. I find no infirmity in the order passed by the Court below. It appears that the sister has been named on account of frustration and to widen the net.

The petition is dismissed.

**August 04, 2016**  
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**(ANITA CHAUDHRY)**  
**JUDGE**

**Whether Reasoned/Speaking**

**Yes/No**

**Whether Reportable**

**Yes/No**