

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

**C.M. No. 27715 of 2016 in/and
Crl. Revn No. 2933 of 2016
Date of decision : 14.09.2016**

Ismile

....Petitioner

versus

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. D.S. Malya, Advocate
for the petitioner.

RITU BAHRI, J.

C.M. No. 27715 of 2016

Application is allowed as prayed for.

Accordingly, P-5 to P-8 are taken on record.

Crl. Revn No. 2933 of 2016

The present revision petition is directed against order dated 27.05.2016 whereby learned Additional Sessions Judge, Mewat has dismissed the application for summoning additional accused i.e respondent Nos. 2 to 8.

Brief facts of the case are that on 11.05.2016, the daughter of the petitioner went along with him in the fields for taking fodder where they saw Kamal doing wrong act with two girls Mainaj and Sannaj. When the petitioner caught hold of him, he fled away and gave threats to the the petitioner of dire consequences. On the same day, when the petitioner was not at home, respondent Nos. 2 to 5 entered the house of the petitioner and forcibly took the daughter of the petitioner and took her into their car

bearing registration No. HR-50-5590 belonging to respondent No. 5. When petitioner approached respondent Nos. 6 to 8, they disclosed that they had planned the kidnapping of the daughter of the petitioner. Subsequently, the daughter of the petitioner was taken to village Karoli and all of them committed rape upon her for 2-3 days and thereafter, took her to Chammu (Rajasthan), where the accused again committed rape upon her. When the petitioner reached Chomu along with police, police apprehended Umar and Sabra and respondent Nos. 2 to 5 fled away from the spot and the investigating agency illegally exonerated respondent Nos. 2 to 8.

Learned counsel for the petitioner contends that the petitioner in his deposition has stated the names and roles played by respondent Nos. 2 to 8 (P-1), as respondent Nos. 2 to 5 abducted the daughter of the petitioner and committed rape upon her and respondent Nos. 6 to 8 helped them in conspiring the abduction. Further the daughter of the petitioner also stated the names and roles played by respondent Nos. 2 to 8 and reiterated the content of the F.I.R and testimony of the petitioner. The deposition of the victim and FIR are Annexure P-2 and P-3 respectively.

Despite the specific allegations levelled by the petitioner and the victim, the application filed under Section 319 Cr.P.C to summon respondent Nos. 2 to 8 for the offences committed by them has been dismissed.

Reference at this stage can be made to F.I.R where the petitioner stated that his wife disclosed him that China (victim) was kidnapped by Hakam, Umar, Sabra, Rajjak, Tofik and Aamir in Maruti alto bearing registration No. HR-50-5590. Thereafter, petitioner went to the house of Hamid, Lalu @ Nasru and Abdul Wahid and they stated that they

had done so as he had given evidence against Kamal. He further stated that silver ornaments weighing 1 kg, 10 gram gold kundal and amount of Rs.8000/- in cash currency were also taken by the accused.

Reference at this stage can now be made to deposition of the victim wherein she has not stated anything qua the snatching of jewellery and cash from her. She further stated that one night she stayed at the house of Rajja Mohammad at Chamu. Before the incident, she went to hurithar at the house of accused Umar and they stayed at the house of the accused. The house was of some Thakur. At chamu, they stayed at the house of Rajja Mohammad for one day and thereafter, they kept on wandering here and there. Rajja Mohammad took them to police Station Chamu after five days.

The victim in her statement under Section 164 Cr.P.C has stated that she was forcefully taken away by Hakam, Razzak, Aamir and Tofik in a car. Umar and one lady was also there. They snatched 1.5 kg of silver and Rs.80,000/- cash from me. They took her to the village Karauli in Rajasthan and kept her there for 03 days. For one day and night, they kept her in village Chomu, District Jaipur and they abducted her on 11.05.2015 and on 16.05.2015, she was brought to the police station (P-5). The mother of the victim in her statement stated that she came to know that Sabra, Rajjak, Umar, Aamir, Hakam and Tofik abducted her daughter and took her in Maruti Car of Tofik, who was driving the car.

After going through the above deposition of the petitioner, his wife and daughter, it seems that the testimony of the petitioner and his wife is hearsay in the present case and the victim has also improved her version.

Thus, the impugned order dated 27.05.2016 dismissing the application of the prosecution for summoning accused-respondent Nos. 2 to

8 does not suffer from any infirmity, as these persons have not been named in the F.I.R nor stated in the evidence before the Court. The police duly investigated the case and recorded the statement of respectable persons of society and in the investigation, police found that accused sought to be summoned as an additional accused are not involved in the commission of offence and as such, they were declared innocent.

In view of the above discussion, the revision petition stands dismissed.

14.09.2016
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No