

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

**CRR-4032-2016 (O&M)  
Date of Decision:- 05.12.2016**

**Suman**

**....Petitioner**

**Versus**

**State of Haryana**

**....Respondent**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

**Present: Mr. Ashwani Bakshi, Advocate  
for the petitioner.**

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**RITU BAHRI, J. (Oral)**

Petitioner has filed the present revision petition against order dated 22.09.2016, passed by learned Additional Sessions Judge (Exclusive Court), Bhiwani, vide which the application filed by the prosecution under Section 319 Cr.P.C. for summoning Kesar wife of Hari Chand as an accused has been dismissed.

As per petitioner-complainant, her marriage took place with accused Naresh about 10 years ago and two children born out from the said wedlock. Thereafter, accused developed illicit relations with accused Sangeeta and started residing with her. From the said illicit relations, Sangeeta also gave birth to two daughters. On 19.10.2015 when petitioner

was present at her house with her mother-in-law, accused Naresh and Sangeeta came there and asked the petitioner whether she was ready to keep accused Sangeeta with her in the house or not. She refused to do so and thereafter Naresh and Sangeeta caught hold of petitioner's both hands, whereas her mother-in-law Kesar caught hold of her both legs and accused Sangeeta forcibly administered her some poisonous substance. Thereafter, she was taken to the Hospital by her father-in-law and FIR was got registered against them.

After registration of the FIR, the charge-sheet was filed against Naresh and Sangeeta and not against petitioner's mother-in-law Kesar. After recording of petitioner's examination-in-chief, the prosecution moved an application dated 07.09.2016 before the trial Court under Section 319 Cr.P.C. for summoning petitioner's mother-in-law Keshar as accused.

After taking into consideration the facts and all the contentions pertaining to appreciation of evidence, learned Additional Sessions Judge (Exclusive Court), Bhiwani, has dismissed the application, by virtue of impugned order dated 22.09.2016, which in substance is as under: -

*“From a bare perusal of court statement of the complainant as well as statement Exh.PW1/A, it is apparent that it has been alleged in Exh.PW1/A that accused Naresh had been living away from home for about past one year with accused Sangeeta in illicit relationship whereas in court statement, it has been alleged that accused Naresh had been living away from home for about past three years with accused Sangeeta in illicit relationship. Exh.PW1/A was made before the police on 20.10.2015 on the basis of which investigation was launched and FIR was registered. According to this statement, her husband was living with another woman since year 2014 but as per court statement, which was recorded on 7.09.2016, her husband has been living with another woman since year 2013. The complainant has thus made improvement while making court statement as PW1. The only allegation against the accused*

*sought to be summoned namely Kesar is that accused Naresh was helped in administering some liquid poison on fateful day by his mother Kesar by holding both feet of the complainant. It is pertinent to mention that no hurt has been suffered by the complainant. Even bottle of liquid in question has not been taken into possession by the police as admitted by complainant. That apart, disclosure statement of Naresh and Sangeeta were recorded, during investigation, by the investigating agency regarding their involvement in committing the offence against the complainant yet from disclosure statements, it bears out that both Naresh and Sangeeta stated in categorical terms during interrogation before the police that Kesar was not present at home at the time of incident and that they both had found complainant alone present in the home when they administered spray to her by force. As such, it appears that it is a case of over implication just to settle the scores. Complainant has only reiterated her version which was put forth before the police and her version was not relied upon by the police and accused Kesar was found to be innocent. In my considered opinion, statement of complainant alone is not sufficient to summon Kesar as an additional accused and her complicity in the offence is not prima facie made out at this stage and no substantive evidence exists against her which would warrant her prosecution with a good chance of conviction.*

13. *In view of my above-said discussion, I am of the considered view that statement in hand is merit less and same is hereby dismissed.”*

Meaning thereby, the learned Additional Sessions Judge, (Exclusive Court), Bhiwani, has examined the matter in right perspective, recorded the cogent grounds and correctly dismissed the application filed by the prosecution.

Learned counsel for the petitioner did not point out any material/reasons, much less cogent, so as to warrant any interference in the impugned judgment.

Such order, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited revisional jurisdiction of this Court under Section 401 Cr.P.C., unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal

infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned order deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore, the instant revision petition is hereby dismissed as such.

December 05, 2016  
naresh.k

( RITU BAHRI )  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |