

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

Crl. Revn No. 645 of 2016
Date of decision : 08.11.2016

Balbir Kaur

....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Inderjit Sharma, Advocate
for the petitioner.

Mr. A.P.S. Gill, AAG, Punjab

RITU BAHRI, J. (Oral)

The present revision petition is directed against order dated 05.10.2015 passed by learned Addl. Sessions Judge, Gurdaspur vide which the petitioner has been summoned under Section 193 Cr.P.C to face trial under Sections 376/366/363 IPC read with Section 3/4 of POCSO Act.

Brief facts of the case are that an F.I.R No. 62 dated 24.09.2014 has been got registered by Jarnail Singh with the allegations that Ranjit Singh came to the house of neighbour Nirmal Singh where the wife of Nirmal Singh and daughter of the complainant were also present. After some time, Ranjit Singh with connivance of Balbir Kaur (wife of Nirmal Singh) abducted his daughter

After lodging of the F.I.R, father-in-law of the petitioner moved an application (P-2) for conducting further investigation and to delete the name of the petitioner from the array of parties. The police investigating agency found that the petitioner has no role to play in the commission of offence, vide inquiry report (P-3) and the petitioner was placed in column

No. 2. But thereafter, on the application moved by the prosecution, the impugned order has been passed and the petitioner has been summoned under Section 193 Cr.P.C to face trial under Sections 376/366/363 IPC read with Section 34 of POCSO Act.

Learned counsel for the petitioner submits that the impugned order is liable to be set aside as the principle accused Ranjit Singh used to visit the house of the complainant regularly and developed relations with the daughter of the complainant and even now the daughter of the complainant is living in the house of Ranjit Singh and both are blessed with the child also.

Learned State counsel, on instructions from Investigating Officer Ganesh Kumar has admitted this fact that the daughter of the complainant is living in the house of Ranjit Singh and both are blessed with the child also.

Heard learned counsel for the parties.

Once in the present case, the prosecutrix is living happily with the accused and the couple are blessed with the child, the impugned order is liable to be set aside as it is not always mandatory for a Court to allow an application under Section 193 Cr.P.C without application merely on the statements under Section 161 Cr.P.C, additional accused are to be summoned. In the said eventuality, the provisions of Section 319 Cr.P.C would become redundant. Summoning of additional accused in exercise of powers under Section 193 Cr.P.C should be exceptional and generally these powers should be exercised only when there is apparent involvement of an accused but he has been excluded to be away from trial by keeping his name in column No. 2.

In the present case, on the application filed by father-in-law of the petitioner, the Investigation Agency has found that the petitioner has no role to play in the commission of offence. Further the prosecutrix is living with the main accused happily and is blessed with the child.

Keeping in view the above fact, the present revision petition is allowed and order dated 05.10.2015 passed by learned Addl. Sessions Judge, Gurdaspur is hereby set aside. However, the prosecution will be at liberty to file an application under Section 319 Cr.P.C against the petitioner, if need be, in accordance with law.

08.11.2016

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No