

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

Criminal Misc. No.M- 12246 of 2017(O&M)

Date of Decision: July 11 , 2017.

Amandeep Kaur PETITIONER (s)

Versus

State of Punjab and another RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Aditya Pal Singla, Advocate
for the petitioner.

LISA GILL, J.

CRM No.20878 of 2017

Amended memo of parties is taken on record subject to just exceptions.

CRM is disposed of.

CRM No.M-12246 of 2017

The petitioner is aggrieved of order dated 05.05.2016 as well as order dated 18.10.2016 passed by the learned Chief Judicial Magistrate, Sri Muktsar Sahib and learned Additional Sessions Judge, Sri Muktsar Sahib, respectively. An application under Section 319 Cr.P.C. moved by the prosecution for summoning respondent No.3 – Baldev Singh (father-in-law), respondent No.4 – Deepo Kaur (mother-in-law) and respondent No.5 – Angrej

Singh (brother-in-law) of the petitioner has been dismissed vide the impugned orders.

It is submitted that there are specific allegations against the accused persons. They have wrongly not been summoned by the learned trial court. The learned Sessions Judge, Sri Muktsar Sahib, it is submitted, has erred in dismissing the revision petition preferred by the present petitioner against order dated 05.05.2016 passed by the learned trial court.

Learned counsel vehemently argues that the petitioner in the FIR has clearly stated that the accused persons have ill-treated her on account of bringing less dowry. They have threatened to set the petitioner on fire by pouring kerosene oil. Reference is made to the averments against the father-in-law to the extent that in case the petitioner is not ready to live with her husband, she could live with him and no demand of dowry would thereafter be raised. Therefore, it is prayed that the impugned orders be set aside and respondents No.3 to 5 be summoned to face trial.

I have heard learned counsel for the petitioner and have gone through the file.

The averments in the FIR against respondents No.3 to 5 are general. In respect to the allegations raised against the father-in-law as mentioned above, it is relevant to note that there is not even a whisper to this effect in the statement suffered by the petitioner before the learned trial court (Annexure P1). It is mentioned in the final report under Section 173 Cr.P.C. that the complainant and her husband were in fact separated from the rest of the family by respondent No.3 – Baldev Singh (father-in-law). The complainant and her husband shifted to a rented accommodation where they both lived together. They quarrelled with

each other again. Thereafter the complainant was residing with her parents. Specific allegations have been raised only against the husband of the complainant. All allegations against respondents No.3 to 5 were found to be incorrect by the Investigating Agency after a thorough investigation. It is specifically mentioned in the report under Section 173 Cr.P.C. that allegations of maltreatment and demand of dowry were found to be correct only qua the petitioner's husband and not against any of the other family members named therein. At this stage, learned counsel is unable to point out anything to the contrary from the record. The learned trial court has thus rightly dismissed the application moved under Section 319 Cr.P.C. The petitioner's revision too has been rightly dismissed by the learned Additional Sessions Judge, Sri Muktsar Sahib.

The Hon'ble Supreme Court in **Hardeep Singh v. State of Punjab, 2014(1) RCR(Cr.) 623** has held that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of cross-examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C. Reference in this respect can be gainfully made to the judgment of the Hon'ble Supreme Court in **Brijendra Singh v. State of Rajasthan, 2017 SCC OnLine SC 491.**

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the impugned orders dated 05.05.2016 and 18.10.2016

passed by the learned Chief Judicial Magistrate, Sri Muktsar Sahib and learned Additional Sessions Judge, Sri Muktsar Sahib, respectively, which calls for interference by this Court in exercise of jurisdiction under Section 482 Cr.P.C.

Accordingly, this petition is dismissed.

July 11 , 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No