

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

**CRM-M-25482-2016
Date of Decision: 18.09.2017**

Baljit Kaur & others

...Petitioners

Versus

State of Punjab & another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vaibhav Narang, Advocate
for the petitioners.

Mr. M. S. Nagra, AAG, Punjab.

Mr. K. S. Baidwan, Advocate
for respondent No. 2.

JAISHREE THAKUR, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of the order dated 19.05.2016 (Annexure P-2) passed by learned Additional Sessions Judge, Amritsar, whereby the revision petition has been dismissed which was filed by the petitioners against the order dated 22.12.2015 (Annexure P-1) in complaint No. 22/2225/15 passed by learned JMIC, Amritsar wherein the petitioners have been summoned under Section 319 Cr.P.C. to face trial.

In brief, the facts are that an FIR bearing No. 183 dated 24.09.2014, under Sections 498-A and 323 of the IPC came to be registered at Police Station Amritsar City, District Amritsar. It was alleged by the complainant that her marriage was performed with one Jagjit Singh son of

Jagtar Singh on 25.02.2014 as per Sikh rites and rituals at Amritsar. Before her marriage, she used to go to the house of Jagjit Singh to take tuition from his sister Baljit Kaur wherein she was raped against her wishes by Jagjit Singh. She was threatened that in case she discloses this incident to anyone, she and her family members would be killed. The matter was eventually compromised and in terms of the compromise, Jagjit Singh married her. At the time of marriage, she was a minor. Despite marriage, she has been continuously harassed by her husband Jagjit Singh and her in-laws for dowry. Allegations were made against Jagjit Singh, Sukhraj Kaur, Baljit Kaur and Gurpreet Singh for giving her beatings. Pursuant thereto, the matter was investigated and the ACP, Amritsar found Baljit Kaur, sister of the husband of the complainant and her husband Gurpreet Singh s/o Gian Singh to be innocent while holding that the complainant was harassed and suffered beatings by her husband and her mother-in-law regarding demand of dowry and it was recommended that a case under Sections 498-A and 323 of the IPC be registered against them. During the proceedings, statement of the complainant was recorded in which again allegations against Baljit Kaur, sister-in-law, and her husband Gurpreet Singh were made by stating that they tried to kill her. It was on the basis of this statement that an application under Section 319 Cr.P.C. was filed and the same was allowed by learned JMIC, Amritsar by order dated 22.12.2015. Against the said order, a revision petition was preferred before learned Additional Sessions Judge, Amritsar which was dismissed, vide impugned order dated 19.05.2016. Hence, aggrieved against the summoning, under Section 319 Cr.P.C., the instant petition has been filed.

Learned counsel for the petitioners contends that the petitioners

have been summoned to face trial on general allegations in which they have been found innocent in the enquiry conducted before the registration of the FIR. In fact, petitioners No. 1 and 2 are the sister-in-law and her husband who were married prior to the marriage of the complainant and are residing separately. It is also argued that petitioner No. 3 Gurpreet Singh, the brother of the husband of the complainant, is a student and residing in a hostel and, therefore, there was no occasion for him to be summoned in proceedings initiated under Sections 598-A and 323 of the IPC. Counsel for the petitioners also argues that the complainant while having her statement recorded has changed the version under the FIR and once they have been found innocent in the investigation that was conducted, the Courts below have erred in summoning them in proceedings under the FIR. It is also argued that in the judgment rendered in ***Hardeep Singh vs. State of Punjab and others, 2014 (3) SCC 92***, the Apex Court has categorically held that without there being cogent evidence which would lead to conviction, persons ought not to be summoned.

I have heard learned counsel for the parties and with their assistance have also gone through the record of the case.

In the FIR that was registered on 24.09.2014, a specific allegation of harassment at the hands of Jagjit Singh and his family members has been raised. It is also alleged that when after *Rakhi* she went back to her in-laws' house, the above said accused namely Jagjit Singh, Sukhraj Kaur, Baljit Kaur and Gurpreet Singh, in connivance with each other, gave her beatings and threw her out of her matrimonial home and thereafter she reached her mother's house who got her admitted into Guru Nanak Dev Hospital, Majithia Road. She had also given a complaint at 181

against the above said accused persons. Even if, in the investigation, they were found innocent, a statement of the complainant has been recorded wherein specific details have been given regarding the alleged physical abuse. This is a matter of evidence. The arguments of the learned counsel for the petitioners with regard to separate residence and not residing jointly; is not a ground enough to allow the instant petition. It is to be noted that in the FIR, it had been specifically stated that rape had been committed upon the complainant by Jagjit Singh in his house where she used to go to take tuition from Baljit Kaur, his sister. In all probabilities, the marriage between the parties was an effort to patch up the matter since the complainant was a minor. Therefore, it cannot be ruled out, at this stage, that the complainant was not ill treated at the hands of her in-laws.

Therefore, this Court finds no ground for interference qua petitioner Nos. 1 and 2, hence, the petition qua them is dismissed. However, since there are no specific allegations against petitioner No. 3-Gurpreet Singh son of Jagtar Singh (*Devar*) in the FIR itself, the petition qua him is allowed.

While disposing of the petition, it is made clear that any observation made herein shall have no bearing on the merits of the case which is to be decided upon evidence led.

18.09.2017

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No