

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

CRM No.M-26436 of 2016 (O&M)

Date of Decision: May 23, 2017

Gurjinder Kaur

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Naresh Kaushal, Advocate,
for the petitioner.

Mr.V.P.S.Sidhu, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondent State of Punjab for quashing the order dated 02.06.2015 passed by learned Judicial Magistrate Ist Class, Ropar and judgment dated 12.05.2016 passed by learned Sessions Judge, Rupnagar, whereby after about three years of registration of FIR, the petitioner has been ordered to be summoned under Section 319 Cr.P.C. and the revision against the same has been dismissed.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that challan was presented against Pargat Singh and Gurminder Singh @ Ghanda. During the trial, an application under Section 319 Cr.P.C. was filed by the prosecution for summoning Gurjinder Kaur wife of Pargat Singh, Harmanjot Singh and Gurbinder Singh @ Sunni sons of Pargat Singh as additional accused. Learned Magistrate on the basis of the statement of the complainant and averments in the FIR, allowed the application and summoned Gurjinder Kaur, Harmanjot Singh and Gurbinder Singh @ Sunni as additional accused to face trial.

The perusal of the impugned order passed by learned Magistrate nowhere shows that from where the Court form the opinion that present petitioner is also involved in the commission of the offence. Simply appearing of name of the petitioner in the FIR as well as in statement of complainant, is not sufficient to summon her. The Court is to be satisfied while summoning the accused and it should also appear to the Court that the persons whom the prosecution wants to summon as additional accused, are involved in the commission of the offence. The revision petition filed by the petitioner was also dismissed by learned Addl. Sessions Judge, Rupnagar, vide judgment dated 12.05.2016.

The perusal of the record shows that only *lalkara* has been attributed to the present petitioner. The occurrence took place on 12.08.2012 and the FIR was got registered on 21.08.2012 i.e. after long delay of nine days. The whole family of Pargat Singh has been involved in the commission of the offence. Pargat Singh along with Gurminder Singh has already been challaned. Now, present petitioner, who is wife of Pargat Singh was also summoned. Two sons of Pargat Singh were also summoned

under Section 319 Cr.P.C. Only *lalkara* has been attributed to the present petitioner and no injury is attributed to her. Secondly, as per MLR, out of six injuries, three injuries are of pain, one is abrasion, other is contusion and third one missing of tooth. The injured is 61 years of age. Five persons are not supposed to cause these injuries to the injured. As per medical jurisprudence, without any external mark or without any X-ray etc., injuries are treated as no injury.

In view of the above discussion, it does not appear that present petitioner is also involved in the commission of the offence. The order and judgment passed by the Courts below amount to miscarriage of justice and are not as per law. Therefore, the order dated 02.06.2015 passed by learned JMIC, Ropar and judgment dated 12.05.2016 passed by learned Addl. Sessions Judge, Rupnagar, are hereby set aside qua petitioner only. The application under Section 319 Cr.P.C. filed by the prosecution stands dismissed qua petitioner.

Resultantly, finding merit in the present petition, the same is allowed.

However, nothing stated above shall constitute my opinion on the merits of case. Whatever observations are given, those are given for the purpose of deciding the present revision petition only.

May 23, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No