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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.3539 of 2017
Date of Decision: 20.11.2017

Paramjit Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Amrik Singh, Advocate,
for the petitioner.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab,
for the respondent.

SUDIP AHLUWALIA, J. (ORAL)

This petition has been filed against the impugned orders dated 16.09.2016 (Annexure P-3) and 23.12.2016 (Annexure P-5), passed by the Ld. Sub Divisional Judicial Magistrate, Khamanon, and Ld. Additional Sessions Judge, Fatehgarh Sahib, respectively.

2. Vide the impugned orders, an application under Section 319 of the Code of Criminal Procedure filed by the prosecution to summon the present petitioner as well as one Preet @ Avit Kaur for facing trial in the proceedings arising out of F.I.R. No.16, dated 20.02.2011, under Sections 341, 323, 324, 326, 506 and 34 of the Indian Penal Code was allowed.

3. It is the contention of Ld. Counsel for the petitioner that

although his client was originally named in the F.I.R., but no specific role was imputed to her in the alleged assault upon the complainant and his associates in the original F.I.R.

4. Consequently, the Police rightly did not send up her name to face trial and kept it in Column No.2 of the challan.

5. However, before the Ld. Trial Court, the complainant Nirmal Khan, while deposing as PW-1 gave certain statement, on the basis of which the application under Section 319 of the Code of Criminal Procedure was allowed.

6. According to the petitioner's side, the statements subsequently given by the complainant in the Ld. Trial Court, were in the nature of “sheer improvement” of the original allegations disclosed in the F.I.R., and do not fulfill the requirement of Section 319 of the Code of Criminal Procedure as per parameters laid down in “**Hardeep Singh Vs. State of Punjab and others**”, **2014 (1) R.C.R. (Criminal) 623**.

7. This Court has considered both the versions relating to the occurrence as disclosed in the original F.I.R. as well as in deposition as PW-1 by the complainant.

8. In the original F.I.R., it was stated-

“I saw that Sukhwinder Singh son of Bachan Singh of our village armed with Gandasi, Sukhjeet Singh son of Bachan Singh armed with Gandasi, Bachan Singh armed with lathi and Baljit Singh son of Samund Singh armed with Gandasi, Rashmi Preet wife of Sukhjeet Singh armed with Gandasi, Paramjit Kaur wife of Sukhwinder Singh armed with Sotti were standing in front of gate of their

house.”

9. Thereafter, it was also mentioned at a later stage in the same F.I.R.-

“Sukhjeet Singh and his wife Preet gave injuries to my wife Parveen with their respective weapons and the above said all the persons continued beating us with their respective weapons by throwing us on the land and”

10. From the aforesaid two extracts, it can be seen that at an earlier stage, the complainant had stated that the present petitioner armed with 'Sotti' was standing in front of the gate of her house. Thereafter, a detailed description of the assault on the complainant's brother, as also on the complainant was given in the F.I.R., after which the second extract reproduced above was also included. From the highlighted portion of the second extract as reproduced above, it is seen that there was a statement that “the above said all the persons continued beating us with their respective weapons”. Clearly, the expression “above said all the persons” must necessarily include the petitioner, who, earlier on, had been specifically named as being armed with a 'Sotti' and standing in front of the gate of the complainant's house.

11. Consequently, the allegation that at a later stage all the persons (which expressions logically includes the petitioner) continued beating us with their respective weapons, from a common sense point of view, would go to indicate that there is sufficient allegation to the effect that the petitioner was also involved in the violence, in which she used the particular weapon, which was allegedly held by her while originally

standing outside the complainant's house gate.

12. It is further submitted on behalf of the State that during investigation even the aforesaid weapon of offence was recovered.

13. In the given facts and circumstances, therefore, in the opinion of this Court, there is no palpable improvement of the allegations made in the original F.I.R. to hold that any substantial deviation has been brought about by the statement given by the complainant during trial, which has already been set out above.

14. This Court is, therefore, not in agreement with the submission that the parameters required in “Hardeep Singh Vs. State of Punjab and others” (supra) viz-a-viz invoking powers under Section 319 of the Code of Criminal Procedure are not fulfilled.

15. Dismissed.

16. The impugned orders passed by the Ld. Courts below are sustained. It is, however, clarified that no observation made in this order shall be construed as a reflection on the actual merits of the allegations, and the Ld. Trial Court shall pronounce its final verdict independently without being influenced by any such observation.

20.11.2017
Apurva

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No