

Criminal Revision No. 3108 of 2017 (O&M)

Date of decision : November 02, 2017

Harwinder Kaur

.....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Mohd. Yousaf, Advocate
for the petitioner.

LISA GILL, J.

The petitioner is aggrieved of order dated 01.06.2017 passed by the learned Additional Sessions Judge, Jalandhar whereby order dated 29.10.2016 passed by the learned Judicial Magistrate First Class, NRI cases Jalandhar has been set aside to the extent of summoning of respondents No. 2 to 4.

Brief facts necessary for adjudication of this petition are that FIR No. 10 dated 02.07.2015 was registered at the instance of the complainant/petitioner. As per the allegations in the FIR (Annexure P-1), the complainant was subjected to harassment and ill-treatment at the hands of her husband, mother-in-law and father-in-law for bringing less dowry. It is averred that her passport was taken away by them and they demanded a sum of ₹2 lakhs to return the same. She was left at her parental home on 06.01.2015 by her husband. The complainant's husband informed telephonically on 08.01.2015 that, in case, she wanted to come back in her in-laws family, money should be arranged by her. She discussed this with her parents, who took her to Ludhiana

to leave her at her matrimonial home. It is alleged that when they went to Ludhiana the petitioner's husband and mother-in-law misbehaved with her family. They abused them and refused to let her reside in the matrimonial home. She was, thus, taken back to Kartarpur by her parental family. Her in-laws family was not ready to even talk to them. Thereafter, the petitioner's husband left for Australia. It is alleged that he has cheated the petitioner and legal action was prayed for.

Final report under Section 173 Cr.P.C. was presented only against the husband of the petitioner, who was declared to be a proclaimed offender. The petitioner's statement (Annexure P-2) was recorded before the learned trial Court on 04.05.2016. Thereafter, the learned trial Court vide order dated 29.10.2016, summoned respondents No. 2 to 4 alongwith Balbir Singh and Parminder Kaur i.e. the parents-in-law of the petitioner to face trial as an additional accused on an application under Section 319 Cr.P.C. A revision petition was preferred by the accused, who were summoned to face trial.

Learned Additional Sessions Judge, Jalandhar vide impugned order dated 01.06.2017 upheld order dated 29.10.2016 to the extent of summoning of parents-in-law of the petitioner but set it aside in respect to respondents No. 3 to 5 while holding that there is insufficient material on record to proceed against them. Aggrieved therefrom, the present petition has been filed.

Learned counsel for the petitioner vehemently argues that specific allegations have been levelled against respondent No. 2, who is

the brother-in-law (Devar) of the petitioner, respondent No. 3 – married sister-in-law and respondent No. 4 , the husband of respondent No. 3 (Nandoi of the petitioner). Therefore, the learned Additional Sessions Judge, Jalandhar has erred in allowing their revision petition. It is, thus, prayed that impugned order be set aside to the extent as above and order dated 01.06.2017 be upheld in totality.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

A perusal of the FIR (Annexure P-1) reveals that no allegations have been levelled therein qua respondents No. 2 to 4. Allegations are raised only against the petitioner's husband and her parents-in-law. However, in her statement before the learned trial Court (Annexure P-2), the complainant/petitioner states that respondent No. 2 tried to beat the petitioner outside the police station when they were called at NRI police station. It is further stated that respondent No. 3 came to her parental home at Kartarpur alongwith her husband Bhupinder Singh and abused her. Respondent No. 3 further threatened the complainant to give divorce to her husband otherwise she would face dire consequences. The facts and circumstances as above indeed indicate that there is insufficient material on record to summon the said respondents to face trial as additional accused. The learned trial Court has rightly dismissed the application under Section 319 Cr.P.C. qua respondents No. 2 to 4.

It has been held by the Hon'ble Supreme Court in **Hardeep Singh versus State of Punjab and others 2014 (3) SCC 92** and **Brijendra Singh versus State of Rajasthan 2017 SCC Online SC 491** that for summoning anyone to face trial as an additional accused, there has to be something more than prima facie evidence though less than evidence to the extent which if unrebutted, would lead to certain conviction of the said accused. In the factual matrix of the case, it cannot be said at this stage that there is evidence of this nature available on record which would justify the summoning of respondents No. 2 to 4.

Learned counsel for the petitioner is unable to point out any infirmity, illegality or perversity in the impugned order dated 01.06.2017, which calls for interference by this Court in exercise of its revisional jurisdiction.

Accordingly, this revision petition is dismissed.

November 02, 2017
rts

(Lisa Gill)
Judge

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