

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

CRM-M-17545-2015(O&M)
Date of decision:-2.8.2018

Sona Sharma

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mrs.Gurnam Kaur Turka, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

Mr.Ashu Kaushik, Advocate
for respondent No.2.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for quashing of order dated 20.1.2014 passed by Additional Chief Judicial Magistrate, Patiala vide which he had summoned petitioner Sona Sharma as an additional accused as well as order dated 9.4.2015 passed by learned Additional Sessions Judge, Patiala vide which the revision petition filed

by petitioner against order dated 20.1.2014 had been dismissed, has been filed by petitioner Sona Sharma.

Briefly stated, facts of the case as per prosecution story are that complainant Rupali wife of Rakesh Kumar, daughter of Bharat Bhushan, resident of House No.4, Street No.1A/14 Guru Nanak Nagar, Patiala had got recorded FIR against her husband Rakesh Kumar, father-in-law Satpal Sharma, mother-in-law Baljit Kaur @ Bimla, sister-in-law Sona Sharma, all residents of Street No.7, House No.734, Guru Nanak Nagar, Patiala levelling allegations that after her marriage with Rakesh Kumar on 27.2.2001, she was harassed and beaten up by her husband; that her husband would taunt her for bringing less dowry; that he was joined by his parents and sister in doing so; that she could not get those demands fulfilled, as such her husband turned her out of the matrimonial home after giving beatings to her; it so happened several times but every time, she was rehabilitated in the matrimonial home by her parents on her husband and in-laws giving assurance that they would not repeat their mistakes; that about four months earlier, her mother-in-law and father-in-law turned the complainant and her husband out of the house and the couple started residing in a rented accommodation, there her husband used to give her beatings after consuming liquor; that he did so on instigation of his family; that on 28.9.2009 at about 5:00 p.m., her husband gave severe beatings to her; that at that time her father-in-law, mother-in-law and sister-in-law had come and she was given beatings on their instigation, who had also abused her; that she was removed to hospital and was medically treated. On registration of the FIR, the investigation in the case started. After completion of investigation and

other formalities, only Rakesh Kumar was challaned and forwarded to face trial, whereas accused Satpal Sharma, Bimla @ Baljit Kaur and Sonu Sharma were found to be innocent. During the trial against Rakesh Kumar, an application under Section 319 Cr.P.C. was filed for summoning of Satpal Sharma, Bimla @ Baljit Kaur and Sona Sharma, which was allowed vide order dated 20.1.2014 by Additional Chief Judicial Magistrate, Patiala. Satpal Sharma, Bimla @ Baljit Kaur and Sona Sharma had filed a revision petition before the Court of Sessions, which was dismissed by learned Additional Sessions Judge, Patiala vide judgment dated 9.4.2015.

It may be mentioned here that Sona Sharma was declared a juvenile and proceedings qua her were ordered to be segregated and ordered to be presented before concerned Juvenile Justice Board. Whereas Rakesh Kumar, Satpal Sharma and Bimla @ Baljit Kaur had faced trial. However, only Rakesh Kumar was convicted for the offence under Section 323 IPC, whereas Satpal Sharma and Bimla @ Baljit Kaur were acquitted of the charge framed against them.

The relevant para of the impugned order dated 20.1.2014 passed by learned Additional Chief Judicial Magistrate, Patiala is being reproduced as under:

5. Section 319 of Cr.P.C. empowers the court to proceed against a person/persons appearing to be guilty of the offence. The present case was registered on the basis of statement made by complainant Rupali. Perusal of the statement complainant recorded U/s 161 Cr.P.C. reveals that she has accused her father in law, mother in law and

Sona sister in law along with the other accused namely Rakesh Kumar with regard to the harassment and beatings given to her. The challan in the present FIR has been presented against accused Rakesh Kumar only. During the course of prosecution evidence complainant Rupali has also appeared before the court and she has categorically deposed on oath that accused Rakesh Kumar used to beat her on the instigation of his mother Bimla Rani, her father in law Satpal Sharma and her sister in law Sona and they used to harass her for bringing less dowry. She has further deposed that on 28.9.2009 her husband along with father in law Satpal, mother in law Bimla Rani and sister in law Sona collectively gave beatings to her. Thus after going through the testimony of complainant Rupali, it is quite evident that accused Satpal Sharma, Bimla alias Baljit Kaur and Sona have actively participated in the commission of offence. Moreover, the above named accused have also been specifically named in the statement of complainant recorded U/s 161 Cr.P.C.. As such, this Court is satisfied that evidence adduced by the prosecution clearly establishes the commission of prima facie case by the above said accused persons. Accordingly, the application U/s 319 Cr.P.C. filed by the prosecution is allowed and accused Satpal Sharma, Bimla alias Baljit Kaur and Sona are ordered to be summoned to face trial in this case. Application disposed off accordingly. However,

observation made in this order shall have no bearing on the merits of the present case.

Whereas, the relevant part of the order dated 9.4.2015 passed by learned Additional Sessions Judge, Patiala is being reproduced as under:

3. *Feeling aggrieved, petitioners Satpal, Bimla and Sona preferred present revision in order to challenge that order. Learned counsel for petitioners vehemently contended that in fact no clear cut evidence has come against the petitioners and infact these petitioners were not residing with Rupali and her husband and they were involved falsely in this case. Learned counsel for petitioners as placed reliance towards authority of Hon'ble Supreme Court of India titled as Michael Machado & Anr. Versus Central Bureau of Investigation & Anr. bearing Criminal Appeal No.184 of 2002 decided on 17.2.2010 wherein it has held as under:-*

“Summoning of a person as additional accused – Evidence created some suspicion against the persons summoned as accused – But suspicion is not sufficient that there is reasonable prospect of convicting them of the offence – Two more persons arrayed as accused by trial Court after 52 witnesses were examined – Order of trial court under Section 319 Criminal Procedure Code set aside.”

I have given careful consideration to the respective contention raised by learned counsel for the petitioner and

have gone through the above mentioned authority of Hon'ble Supreme Court of India.

There is no dispute about law alid down in the above mentioned authority of Hon'ble Apex Court, but in this case complainant Rupali levelled specific allegations against all the three petitioners in her complaint, on the basis of which case was registered against accused persons and apart from that complainant Rupali has stepped into the witness box and she again cleared the picture by narrating that in fact these three petitioners also gave beatings to her and such accused also used to harass her for bringing less dowry. Such evidence on record is enough to say that there are sufficient grounds to proceed against these three accused namely Satpal, Bimla and Sona for the offences under Section 498-A and 323 IPC. Learned Trial Court has rightly summoned these petitioners by virtue of Section 319 Cr.P.C. to face trial.

4. Resultantly, there is no merit in the present revision petition and same is dismissed accordingly. Impugned order passed by learned Trial Court is hereby affirmed. Revision file be consigned to the record room while copy of order alongwith main file of trial court be returned at once to the court concerned for taking up further proceedings.

I do not find any illegality or infirmity in such orders, which might have called for interference by this Court while exercising

jurisdiction under Section 482 Cr.P.C.

Therefore, the petition stands dismissed.

2.8.2018

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No