

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Misc. No.M-20057 of 2017(O&M)
Date of Decision: 16.01.2018

Mandeep Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Deepak Sabherwal, Advocate
for the petitioner.

LISA GILL, J(Oral).

Challenge in this petition is to order dated 17.02.2017 passed by learned Additional Sessions Judge, Kapurthala (Annexure P-6) as well as order dated 10.09.2015 passed by learned Judicial Magistrate Ist Class, Kapurthala, whereby the petitioner has been summoned to face trial in FIR No. 62 dated 06.08.2014, under Sections 406, 498-A IPC, registered at Police Station Begowal, District Kapurthala, as an additional accused.

It is submitted that the petitioner who is the married sister-in-law of the complainant has been wrongly summoned to face trial. During investigation, the petitioner was found innocent and there is nothing on record to justify the summoning of the petitioner by the learned Courts below. While referring to the judgments of the Hon'ble Supreme Court in ***Hardeep Singh v. State of Punjab*** (2014) 3 SCC 92 and ***Brijendra Singh & others v. State of Rajasthan*** 2017 SCC Online SC 491, it is submitted that there has to be some compelling circumstance for summoning the accused to face trial as an additional accused. It is not a mere *prima face* case which has to be seen at this stage for summoning an accused under Section 319 Cr.P.C.

It is vehemently urged that the petitioner was married on 17.11.2012 i.e. prior to the marriage of the complainant with the petitioner's brother on 27.01.2013. The petitioner was living separately with her in-laws family and has nothing to do with the matrimonial dispute of the parties. It is thus prayed that this petition be allowed.

I have heard learned counsel for the petitioner and have gone through the file.

FIR No. 62 dated 06.;08.2014, was registered against four accused i.e. Jaspreet Singh, Sukhdev Singh, Joginder Kaur and Mandeep Kaur (present petitioner). After investigation, all the accused persons except Jaspreet Singh, husband of the complainant were found innocent. Application under Section 319 Cr.P.C was moved for summoning said accused to face trial after recording statement of the complainant-PW-1. Learned Judicial Magistrate Ist Class, Kapurthala, vide order dated 10.09.2015, opined that there are sufficient grounds to proceed against the present petitioner. Revision petition filed by the petitioner was dismissed by the learned Additional Sessions Judge, Kapurthala, vide order dated 17.02.2017 while concluding that specific allegations have been levelled against her. The main argument raised by learned counsel for the petitioner is that the petitioner being the married sister-in-law of the complainant was living at her in-laws family thus had nothing to do with the matrimonial dispute of her brother and his wife. Therefore, she has been wrongly summoned to face trial.

A perusal of FIR as well as statement of the complainant reveals that the petitioner is stated to be living with her parents i.e. in-law of the complainant. There are specific allegations of physical abuse meted out by the petitioner. It is mentioned that in the month of June 2013, the present

petitioner along with others tried to strangle her. This matter was adjourned to enable learned counsel for the petitioner to point out any material to indicate that the petitioner was living with her in-laws family and not with her own parents as alleged by the complainant. However, no such document or circumstance has been pointed out/placed on record by learned counsel for the petitioner despite opportunity. Though, it is sought to be argued that in her statement before the learned trial Court, the complainant-PW-1 did not specifically mention the petitioner to be living with her in-laws, this argument on behalf of the petitioner is untenable in view of the specific averment by the complainant in the FIR that the petitioner was already residing with her parents i.e. in-laws of the complainant. In her statement before the learned trial Court, she has reiterated the specific allegations against the petitioner.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned orders dated 10.09.2015 passed by the learned Judicial Magistrate Ist Class, Kapurthala and order dated 17.02.2017, passed by learned Additional Sessions Judge, Kapurthala.

Keeping in view the facts and circumstances of the case, no ground is made out for interference by this Court in exercise of revisional jurisdiction.

Accordingly, this petition is dismissed.

16.01.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No