

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

CRM-M-22803-2016

Date of decision:-5.10.2018

Anju Mittan

...Petitioner

Versus

State of Haryana and others

...Respondents

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

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

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Ashish Gupta, Advocate
for respondent No.2.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. for setting aside of the order dated 6.6.2016 passed by Additional Sessions Judge, Karnal vide which order of summoning under Section 319 Cr.P.C. dated 18.5.2016 passed against respondents No.2 to 4 has been set aside, has been filed by petitioner Anju Mittan.

Briefly stated, the facts of the case are that complainant

Anju Mittan wife of Sonu, daughter of Sh.Shishpal, resident of New Prem Colony, Karnal had submitted a written complaint addressed to SHO, Police Station City, Karnal seeking taking of legal action against her husband Sonu, father-in-law Balbir, mother-in-law Bimla as well as Gurmit Narwal on the allegations that at the time of her marriage with Sonu on 19.8.2008, her mother and brothers had spent a sum of Rs.25 lakhs around; father of the complainant was not alive at that time; that considerable dowry articles including costly items in the form of gold jewellery etc. were given to the accused, however, after the marriage, the complainant was harassed and maltreated by all the accused in connection with demand of more dowry articles, however, the complainant could not get those demands met, therefore, her harassment and torture at the hands of accused continued; that on 21.8.2008 during night hours, husband of complainant Sonu along with his maternal uncle Gurmit Narwal came home under the influence of liquor and they started abusing the complainant; that Sonu left Gurmit Narwal in the room of complainant and himself went out; that Gurmit Narwal switched off the light of the room and the complainant was made to lay on the bed by use of force and he tried to outrage her modesty; the complainant raised an alarm and rushed out of the room with great difficulty; that Gurmit Narwal intended to have sexual intercourse with the complainant, however, the complainant did not disclose the matter to her mother and brothers and her in-laws family was not aware of the matter; that on 28.8.2008, Naveen, brother of the complainant along with her mother came to the matrimonial house and gave a sum of Rs.10 lakhs to the accused on account of dowry as demanded by them; the accused were

still not satisfied and after a few days, they started harassing and torturing the complainant so as to force her to bring more dowry articles; that she used to be given beatings by her husband on instigation of the other accused; the complainant got study visa; her husband also got visa and on 23.3.2009, they left for Australia; a sum of Rs.10 lakhs was spent for said trip and expenses were borne by mother of the complainant; in Australia, the complainant started work, however, her husband Sonu would remain idle and beat up the complainant; the complainant gave birth to a child in Australia named Krish; that mother-in-law of the complainant went to Australia on 7.9.2009; there also Sonu and his mother used to misbehave with the complainant and pressurised her to get Rs.50 lakhs from her mother; on 28.12.2009, the mother-in-law of the complainant snatched her son Krish from her forcibly and came back to India; that Sonu had also snatched mobile phone of complainant even; on 29.11.2011, the complainant returned to India; that when she reached the matrimonial home, she was given beatings by her mother-in-law, father-in-law and Gurmit Narwal; that she was turned out of the matrimonial home; Panchayats were convened; on 2.2.2012 the complainant returned to Australia; there was no change in behaviour of Sonu. In the complaint, the complainant had narrated various incidents constituting her tale of woes. In the end, she prayed for taking of legal action against the accused.

On the basis of such complaint, formal FIR was registered. The investigation in the case started and on completion thereof only Sonu was challaned. During trial against Sonu, an application under Section 319 Cr.P.C. was filed for summoning of Balbir Singh, Bimla

and Gurmit Narwal as additional accused, which was accepted by Judicial Magistrate Ist Class, Karnal vide order dated 18.5.2016.

Feeling aggrieved, the persons summoned as additional accused filed a revision petition before the Court of Sessions, which was marked to Additional Sessions Judge, Karnal, who vide judgment dated 6.6.2016 accepted the revision petition and set aside the impugned order, which left the complainant aggrieved and she has filed the present revision petition, notice of which was issued to respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the revision petition.

The judgment passed by the learned Additional Sessions Judge, Karnal is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. Learned Additional Sessions Judge, Karnal has taken into view the facts and circumstances, which had conveniently been ignored by the learned trial Magistrate. Learned Additional Sessions Judge, Karnal has examined the matter in view of settled law on the subject while observing that as per statement of complainant Anju Mittan as PW10, the marriage between her and Sonu was solemnized on 19.8.2008 and the two spouses had left for Australia on 23.3.2009, then she has returned to India on 28.12.2009 and complaint was filed on 5.3.2012. Furthermore, the allegations against Balbir Singh, Bimla and Gurmit Narwal are of general nature. Learned Additional Sessions Judge, Karnal has referred to *Poonam Nagar Versus State of Haryana and another, 2016(1)*

RCR(Criminal) 119 to the effect that there is unhealthy practice and unwarranted general tendency to implicate maximum members of the family of the husband, including his distant relatives at the hands of estranged wife.

The concluding para of the judgment passed by Additional Sessions Judge, Karnal is as under:

Keeping in view the dictum laid down by the Hon'ble Courts in the aforesaid judgments, coupled with the facts of present case and in the considered view of this Court, the allegations levelled by the complainant against the revisionists-accused are general in nature. Moreover, PW10 Anju has stated in her cross-examination that when the matter could not be resolved in the panchayat, then she sought the opinion of the advocate. Moreover, the prosecution has examined ten witnesses out of eleven witnesses till date. Perusal of complaint also shows that maximum time the complainant PW10 Anju along with her husband/accused remained in Australia after he marriage and before the time of filing of present case. Therefore, in the considered view of this Court, there is no sufficient evidence against the proposed accused to summon them and to face the trial along with present accused before the Court.

15. *In the considered opinion of this Court as well as in the wake of above discussions, the revisional court has found patent illegality or material irregularity in the*

impugned order and hence, interference is required from the Revisional Court. Accordingly, the present revision petition filed by the revisionists is hereby allowed and impugned order is hereby set aside.

I do not find any illegality or infirmity in such judgment, which might have called for interference by this Court while exercising jurisdiction under Section 482 Cr.P.C.

Therefore, the petition stands dismissed.

5.10.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No