

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

**CRM-M-23469-2018 (O&M)
Date of Decision: 29.05.2018**

Gurmeet Kaur

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harshit Jain, Advocate
for the petitioner.

ANITA CHAUDHRY, J

The petitioner has challenged the order dated 17.02.2018 passed by the Additional Sessions Judge, Sangrur who allowed the revision petition and set aside the order dated 23.10.2015 passed by the Judicial Magistrate Ist Class, Malerkotla and allowed the application filed under Section 319 Cr.P.C. The Magistrate had ordered the summoning of respondents No.2 to 5.

A case was registered in September, 2009 on the statement made by complainant who got married to Rajwinder Singh in 2006. The allegations were that few days after the marriage the husband, mother-in-law, father-in-law and sister-in-law started harassing her and started demanding and compelling the complainant to bring a Scooter, TV, fridge and other articles. The allegations was that since she could not fulfill the demands, the sister-in-law with the help of other accused gave her a beating

and got a statement recorded on a paper that she did not want to stay in the house and after that the matter was taken to the Panchayat and the in-laws admitted their fault in getting the statement recorded and the paper was torn in the presence of the Panchayat. The allegations after that the in-laws were greedy and the husband has asked for divorce and the in-laws family was defaming her in society and were preparing false photographs and CDs.

The police challaned only the husband. At the trial, the complainant/PW-3 in her statement assigned a role to each of the persons named by her. In the FIR, she gave an exaggerated version attributing one article to each member. It was at a variance with what was stated in the FIR. The allegations in the Court were that the father-in-law and mother-in-law demanded a fridge while the sister-in-law demanded a TV. She had also alleged that a sum of Rs.15000/- was paid by her father when she gave birth to a girl child in the nursing home. She had also alleged that she was beaten up on 10.03.2009. No MLR was produced to support that statement. The prosecution thereafter moved an application under Section 319 Cr.P.C. and the trial Court passed an order summoning the additional accused.

The Appellate Court reversed the order of the trial Court and gave its reasons for rejecting the statement of the complainant. It noted that the sister-in-laws were married and were residing at distant places and there was no occasion for them to raise any demands. It also noted that the trial Court had failed to record its satisfaction as to why the additional persons should be summoned to face the trial.

The order passed by the Magistrate was not a speaking order. There was no application of mind and it was in contravention of the principles laid down in '*Hardeep Singh Vs. State of Punjab, 2014(2) SCR*

I'. The order passed by the Additional Sessions Judge is well reasoned. The trial Court had mechanically passed a cryptic order without recording reasons and it was rightly set aside. Additional accused can be summoned only if there is evidence which is more than *prima facie* which is missing in this case.

I find no merit in the petition. The petition is dismissed in *limine*.

May 29, 2018

ps-I

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No