

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

CRM-M No.39339 of 2015 (O&M)

Date of decision: 25th October, 2018

Veena Devi

... Petitioner

Versus

Laxman Singh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Tapan K. Yadav, Advocate for the petitioner.

Mr. Manjeet Singh, Advocate for respondents No.1 and 2.

Not pressed qua respondents No.3 & 4.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for respondent No.5/State.

FATEH DEEP SINGH, J.

The brief facts that are necessitated for the disposal of present petition calling upon this Court to exercise its inherent jurisdiction under Section 482 Cr.P.C. are as follows:-

A case by way of FIR No.104 dated 20.05.2002 under Sections 498A, 406, 323 IPC was registered at Police Station Adampur, District Hisar by Smt.Veena Devi complainant wife of accused Ajay Kumar. During the course of trial, after recording statement of the complainant Veena Devi, an application under Section 319 Cr.P.C. was moved by the complainant on 16.07.2013 for summoning of Laxman Singh, Kaushalya, Vijay Kumar and Sangeeta as additional accused. The Court of learned Additional Chief Judicial Magistrate, Hisar vide orders

dated 07.07.2014 dismissed the application. On impugning the same by the complainant before the Court of learned Additional Sessions Judge, Hisar, through impugned findings dated 20.10.2015 the Court below upheld the findings of learned Judicial Magistrate and thus, dismissed the revision petition of the complainant. That is how the parties are before this Court in this present petition.

Upon hearing Mr. Tapan Kumar Yadav, Advocate for the petitioner; Mr. Manjeet Singh, Advocate representing respondents No.1 and 2; Mr. Munish Sharma, Asstt. Advocate General, Haryana on behalf of respondent No.5/State and on perusal of the records; whereas the petition stood dismissed as not pressed qua respondents No.3 and 4 vide orders dated 03.03.2016.

It is duly admitted at the arguments by the rival counsel that Laxman Singh is father-in-law of the complainant, Kaushalya mother-in-law, Vijay Kumar is brother of her husband and Sangeeta is her sister-in-law, who have been found innocent during the course of investigations and placed in column No.2. It is subsequent thereto at the trial, the complainant stepped into the witness box as PW1 and on the basis of which this petition has come about.

Appreciating the submission, the Hon'ble Supreme Court in a catena of case law has considered the very ambit and scope of Section 319 Cr.P.C. and the settled proposition of law has come about by a

Constitutional Bench in view of the law laid down in '**Hardeep Singh vs. State of Punjab**' 2014 (1) RCR Criminal 623. In the cited ratio, the Hon'ble Apex Court has laid down the proposition that powers under Section 319 Cr.P.C. are discretionary and by way of extraordinary powers, which need to be exercised sparingly only in those cases where it is so necessitated. Since the investigating agency found the persons so proposed to be arraigned as accused, to be innocent thus a heavy onus lays upon the prosecution to bring about a case as to their being brought before the Court to face trial. A close look at the testimony of the complainant wife Veena Devi as PW1 placed on the record as Annexure P2 shows that all the allegations against these persons are vague and ambiguous. As has been pointed out during the course of arguments, neither there is any specific role attributed to any of these persons much less their acts in commission of the crime in which they are being proposed to be summoned. The only averment that has come about is that all the aforesaid persons were compelling her for bringing a car and giving her beatings. Such a cryptic, unfounded and unsubstantiated allegation, to the mind of this Court, does not fall within the domain of evidence as defined in **Hardeep Singh's case (ibid)**. It has been rightly concluded by the Court below that the evidence available against the proposed persons does not fulfill the criteria laid down in the various citations which have been discussed therein. Thus, it has been rightly

concluded by the Court in the impugned findings that there has been no legal necessity to show indulgence in the orders of the trial Court. Learned counsel for the petitioner could not convince this Court how there has been miscarriage of justice causing immense prejudice to the case of the petitioner necessitating intervention by this Court. Finding no merit, the petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

October 25, 2018
rps

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