

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

**CRM-M-4775 of 2018(O&M)
Date of Decision: 05.02.2018**

Meenu Sharma

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashit Malik, Advocate
for the petitioner.

LISA GILL, J(Oral).

Petitioner is aggrieved of order dated 05.01.2018, passed by learned Additional Sessions Judge, Karnal, whereby order 21.08.2017, passed by the learned Judicial Magistrate Ist Class, Karnal (Annexure P-6), has been upheld. Application under Section 319 Cr.P.C., for summoning respondents no.2, 3 and 4 to face trial as additional accused in FIR No. 1195 dated 08.12.2013, under Sections 498-A, 406, 323, 34 IPC was dismissed by the learned trial Court vide order dated 21.08.2017.

Respondents no.2 and 3 are brothers-in-law (devar) and respondent no.4 is the unmarried sister-in-law (Nanand) of the petitioner.

It is submitted that there are specific allegations against all the said respondents. Petitioner has reiterated the allegations against them while deposing before the learned trial Court. Learned counsel for the petitioner argues that the learned Additional District Judge, Karnal, has erred in observing that there is no clinching evidence against the said respondents. At this stage, it is only a prima facie case which has to be seen for summoning a person to face trial as an additional accused. The petitioner while deposing before the learned trial Court has raised specific allegations against all the

three respondents. In this view of the matter, both the learned Courts below have grossly erred in dismissing the application under Section 319 Cr.P.C. It is thus prayed that this petition be allowed.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

FIR No. 1195 dated 08.12.2013, was registered on the statement of the petitioner. On investigation, respondents no.2 to 4 were found innocent by the Investigating Officer as well as the Deputy Superintendent of Police, Karnal. Proceedings were initiated against the husband and the parents-in-law of the petitioner. They are facing trial. A perusal of the FIR reveals that the complainant stated that when her husband went to Cyprus in the first week of June 2011, all the accused including respondents no.2 to 4 started harassing and beating the complainant. Another allegation is of entrustment of one gold ring, clothes and cash of ₹5100/- at the time of marriage to respondents no.2 to 4. There is no other specific allegation against the said respondents in the said FIR. A perusal of the statement of the petitioner before the learned trial Court (Annexure P-5) reveals that no specific allegations have been raised against respondents no.2 to 4. In this view of the matter, learned Courts below have rightly dismissed the application under Section 319 Cr.P.C., *qua* respondents No. 2 to 4. There is nothing on record to suggest that the investigation wherein the said respondents were found innocent, is tainted.

It has been held by the Hon'ble Supreme Court in **Hardeep Singh versus State of Punjab and others 2014 (3) SCC 92** and **Brijendra Singh versus State of Rajasthan 2017 SCC Online SC 491** that for summoning a person to face trial as an additional accused, there has to be something more than *prima facie* evidence though less than evidence to the

extent which if unrebutted, would lead to certain conviction of the said accused. In the factual matrix of the case, it cannot be said at this stage that there is evidence of this nature available on record which would justify the summoning of respondents No. 2 to 4.

Learned counsel for the petitioner is unable to point out any infirmity, illegality or perversity in the impugned order dated 05.01.2018, which calls for interference by this Court in exercise of its revisional jurisdiction.

Accordingly, this petition is dismissed.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

05.02.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No