

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

CRR No.3216 of 2014

Date of decision: 2nd May, 2018

Harpreet Kaur

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Arshdeep Brar, Advocate
for the petitioner.

Mr. B.S. Sewak, Addl. Advocate General, Punjab
for respondent No.1/State.

None for respondent No.2.

Mr. B.S. Bhalla, Advocate for respondents No.3 and 4.

FATEH DEEP SINGH, J.

This is a criminal revision preferred by Harpreet Kaur, the victim, challenging an order dated 31.07.2014 of the trial Court of learned Additional Sessions Judge, Moga whereby the application moved by the State side under Section 319 Cr.P.C. stood dismissed and the Court declined to summon Ajaib Singh, Gurdeep Singh and Darshan Singh, private respondents, as additional accused to face trial along with the co-accused, namely Tota Singh, Birbal Singh and Jaswinder Singh.

Heard Mr. Arshdeep Brar, Advocate representing the petitioner; Mr. B.S. Sewak, Additional Advocate General, Punjab on

behalf of respondent No.1/State; Mr. B.S. Bhalla, Advocate for the private respondents No.3 and 4 and perused records of the case.

A case by way of FIR No.17 dated 27.02.2012 under Sections 307 read with Section 120B IPC and Section 25 of the Arms Act was registered with Police Station Nihal Singh Wala on the statement of Harpreet Kaur. In her brief allegations, it is alleged by the complainant that Gurjit Singh, who was a resident of Canada, was visiting India and accosted the complainant and both of them married in the year 2010 and her husband promised to call her to Canada. While in India, the complainant worked as a Computer Teacher in Government Senior Secondary School, Raunta and was residing with the family of her maternal uncle in village Sanet and used to commute by bus to Moga and thereafter to Raunta through Innova vehicle, whose driver was Pankaj Sood. It was during the course of events, the complainant came to know that Gurjit Singh was having another wife in Canada and when the complainant insisted for her migration to Canada, her husband refused and rather along with his uncle Ajaib Singh resident of village Raunta, aunt's son Gurdeep Singh resident of village Ubhan, District Mansa and sister's husband Darshan Singh resident of village Seman, District Bathinda repeatedly threatened her on mobile phone and also by visiting her school and even threatened to kill her. It is alleged that on 27.02.2012 around 3.15 p.m. when the complainant was going in the Innova car, a black colour motorcycle waylaid the vehicle of the complainant whereby

two young persons armed with pistols stopped the car and when the car driver tried to escape by putting the vehicle in reverse gear, it fell into the nearby fields and then one of the persons opened the door of the vehicle and told the complainant that they will teach her a lesson for not giving divorce to Gurjit Singh and fired a shot at the complainant which pierced through her chin and nose. Another fire was given by the accomplice by means of pistol which hit the right leg of the complainant and on raising noise, they ran away. On the basis of this FIR, the present accused Tota Singh, Birbal Singh and Jaswinder Singh were put to trial, during which the application in question under Section 319 Cr.P.C. was moved for summoning the remaining persons, whose names had cropped up in the FIR.

Appreciating the submissions of the two sides, it is not by any means displaced by learned counsel for the private respondents as to the relationship of complainant Harpreet Kaur with Gurjit Singh. In her stand taken in the FIR, which is the document first in point of time immediately after the occurrence, she had levelled insinuations and allegations against all these persons. Furthermore, accused Gurjit Singh, the husband of the complainant, has already been declared a proclaimed offender whereas Darshan Singh, Gurdeep Singh and Ajaib Singh were found innocent during investigations. It is in her testimony before the police as well as in the Court, she has levelled insinuations against Darshan Singh, Gurdeep Singh and Ajaib Singh assigning them specific

role of threatening her with dire consequences, including putting her to death. In her stand, she has stood by this version and her statement is certainly cogent and convincing, and can be taken as evidence. The position of law as to the exercise of powers under Section 319 Cr.P.C. has been well discussed in detail in the ratio of Hon'ble the Apex Court in **“Hardeep Singh v. State of Punjab’ 2014(1) RCR (Criminal) 623.** The Court below merely on the premise that there is no sufficient evidence to show conspiracy of these persons or their involvement in commission of the crime, has declined the application. Learned counsel for the petitioner has gone through the statement of Harpreet Kaur as PW1 whereby she has identified the accused facing trial and has categorically testified the motive for this occurrence as the husband Gurjit Singh wanted to get rid of her and has conspired with his close relatives Ajaib Singh, Gurdeep Singh and Darshan Singh; is in itself sufficient accusation to bring the case of the complainant within the realm of legitimate and legal evidence and has also brought on record representations to the higher authorities Ex.P2 and further claims to have identified the accused at the Test Identification Parade.

Evidently, while exercising powers under Section 319 Cr.P.C., the Court is not supposed to dwell deep on merits of the evidence and has only to judge the same on the touchstone of “prima-facie” case and the Court need not fall into the trap if the evidence was sufficient enough for conviction of the accused. The impugned findings

certainly are a lackadaisical approach into the matter whereby the Court below has critically evaluated the evidence as if deciding the case on merits, stating that she has failed to give specific dates of threats given to her by the persons so sought to be summoned as additional accused and that she has not proved that these persons so sought to be summoned as additional accused had any conversation or transaction with the accused executing the crime, which is too preposterous a proposition at this juncture.

In the light of what has been detailed and discussed above and the settled proposition of law, the impugned findings certainly have resulted in immense prejudice to the case of the petitioner causing miscarriage of justice necessitating intervention by this Court. In view thereof, the impugned order declining the relief to the petitioner is hereby set aside by way of allowing the present revision petition.

(FATEH DEEP SINGH)
JUDGE

May 2, 2018
rps

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