

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

CRR-2822-2017(O&M)

Date of decision:-4.9.2018

Chaman Lal Kanda and another

...Petitioners

Versus

State of Punjab and another

...Respondents

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

Present: Mr.Munish Gupta, Advocate
for the petitioners.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

Dr.Anand Bishnoi, Advocate with
Ms.Shweta Nahata, Advocate
for respondent No.2.

H.S. MADAAN, J.

Briefly stated, facts of the case as per the prosecution story are that Pooja Kanda daughter of Sh.Parveen Kumar residing at her parental House No.233, Nizatam Nagar, near Kirpal Ashram, Street No.7, Jalandhar had submitted a written complaint dated 17.5.2012 addressed to Commissioner of Police, Jalandhar seeking taking of action against her husband - Harish Kanda, father-in-law - Chaman Lal Kanda, mother-in-law - Chanchal Kanda and sister-in-law - Ashu Verma on the allegations of her maltreatment and harassment on account of demand of dowry and criminal breach of trust with regard to her dowry articles. On the basis of said complaint, formal FIR was registered against Harish Kanda only,

whereas it was not so with regard to the other persons named in the complaint.

After completion of investigation, challan against Harish Kanda was filed in the Court and trial against him began, during the course of which, the complainant Pooja Kanda got her statement recorded as PW1 and thereafter, an application under Section 319 Cr.P.C. was filed by the complainant for summoning of Chaman Lal Kanda, Chanchal Kanda and Ashu Verma as additional accused. That application was dismissed by the trial Magistrate vide order dated 9.6.2015.

The complainant had challenged that order before the Court of Sessions by way of filing a revision petition, which was assigned to Additional Sessions Judge, Jalandhar, who vide order dated 21.10.2015 set aside the order passed by the trial Court regarding Chaman Lal Kanda and Chanchal Kanda for offences under Section 498-A IPC, directing the trial Court to pass a fresh order against Chaman Lal Kanda and Chanchal Kanda in light of the averments made in application Ex.PA and statement of complainant got recorded in the Court with regard to offence under Section 498-A IPC. That order passed by learned Additional Sessions, Jalandhar was challenged by Chaman Lal Kanda and Chanchal Kanda in this Court and vide order dated 22.2.2017 passed in Criminal Revision No.4510 of 2015, order dated 21.10.2015 passed by learned Additional Sessions Judge, Jalandhar was set aside and the matter was remanded to Additional Sessions Judge, Jalandhar with a direction to give an effective opportunity of hearing to the petitioners in the revision petition and thereafter pass a fresh order on merits. Thereafter, learned Additional

Sessions Judge, Jalandhar passed a fresh order dated 4.8.2017, which was on the same lines as passed by him earlier. Learned trial Magistrate then vide order dated 18.9.2017 passed a detailed order summoning Chaman Lal Kanda and Chanchal Kanda as additional accused for the offence under Section 498-A IPC. As such, Harish Kanda, Chaman Lal Kanda and Chanchal Kanda have been charge-sheeted inasmuch charge for the offence under Section 406 IPC has been served upon Harish Kanda – accused, whereas for the offence under Section 498-A IPC against all the three accused.

The petitioners are feeling aggrieved by the said order summoning them as additional accused, by way of filing a revision petition challenged the order dated 4.8.2017 passed by learned Additional Sessions Judge, Jalandhar, 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 do not find any merit in the revision.

A perusal of the order passed by learned Additional Sessions Judge, Jalandhar goes to show that he had remanded the case to Judicial Magistrate Ist Class, Jalandhar with a direction to pass a fresh order against Chaman Lal Kanda and Chanchal Kanda, keeping in view the averments made in the application Ex.PA and statement of complainant recorded in the Court regarding offence under Section 498-A IPC. A fresh order in that regard has been passed by learned trial Magistrate summoning Chaman Lal Kanda and Chanchal Kanda as additional accused, who have put in appearance and they along with their son Harish

Kanda have been charge-sheeted also, in that way, the revision petition has become infructuous. Even otherwise, on merits also, no fault can be found with the direction issued by Additional Sessions Judge, Jalandhar to the trial Magistrate. He had not directed the trial Magistrate to summon Chaman Lal Kanda and Chanchal Kanda as additional accused but had simply directed such Magistrate to pass a fresh order in light of the material available on record and thereafter the trial Magistrate had passed the order, which has not been challenged in the present revision petition. The charge against the accused has been framed and now the case is fixed for trial. The guilt of the petitioners shall be determined during the trial. The petitioners can take all the pleas available to them during the trial of the case. Therefore, no ground to set aside the impugned order is made out.

Therefore, the revision petition stands dismissed. However, keeping in view the fact that petitioners are stated to be aged persons, it is directed that on an application for exemption from personal appearance of petitioners being filed, the same be allowed subject to the conditions that they would be represented by counsel; that identity of the petitioners shall not be disputed and they would appear in the Court as and when so specifically directed by the trial Court.

4.9.2018

Brij

**(H.S.MADAAN)
JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**