

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 2949 of 2017 (O&M)

Date of decision : 8.10.2018

...

Ashok Kumar

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Arjun Sheoran, Advocate
for the petitioner.

Mr. Brijesh Sharma, Assistant Advocate General,
Haryana.

Ms. Deepa Singh, Advocate for the complainant.

...

H. S. Madaan, J.

This revision petition is directed by complainant Ashok Kumar, against order dated 17.7.2017, passed by Additional Sessions Judge (Exclusive Court), Bhiwani, dismissing application under Section 319 Cr.P.C., for summoning of additional accused.

Briefly stated, facts of the case as per the prosecution story are that complainant Ashok Kumar, who is petitioner before this Court had submitted an application to the police contending therein that on 22.3.2017 at about 11.00 A.M., his daughter – prosecutrix (name withheld to conceal the identity), aged about 15 years, a student of Class 10th in Government School, village Haluwas, was

going to their plot to bring wood; on the way she was forcibly taken away by Monu s/o Lala, Rahul s/o Shaym, Devender s/o Mannu, Sudhir s/o Bijender and one more unknown boy, residents of that village. She was taken to the field of mustard crop, where she was undressed. Then all the boys committed sexual intercourse with her, against her will and without her consent, turn by turn. Rahul, Devender and Sudhir clicked her photographs in naked condition and even made video film with mobile phone. When the prosecutrix raised the alarm, the culprits threatened to kill her and her family members and they would upload her obscene photographs and video on internet, in case she disclosed the incident to anyone or lodged the complaint with the police. They gave abuses to her in the name of caste also. The prosecutrix returned home but she did not narrate the incident to her family members, due to fear. Rather she became introvert, went in the state of shock and stopped eating. However, on 24.3.2017 at about 5.00 P.M. on assurance being given by her parents she disclosed the entire incident to them. As such she accompanied by her father went to the Police Station for reporting the matter, where it was so done. Formal FIR was registered and investigation in the case started. During the course of such investigation, statement of the prosecutrix under Section 164 Cr.P.C. was got recorded from the Judicial Magistrate. She was got medically examined from General Hospital, Bhiwani. Supplementary statement of the prosecutrix was also recorded.

Accused were arrested in this case. However, during investigation, Sandeep was found to be innocent, as such he was not

challaned, whereas remaining culprits named in the FIR, namely Devender, Rahul, Sudhir and Monu, were sent up to face trial.

During the course of such trial, the prosecution moved an application under Section 319 Cr.P.C. for summoning of Sandeep as an additional accused. That application was dismissed holding that the conclusion drawn by the police during the investigation that Sandeep was not present at the spot at the relevant time was correct and complicity of Sandeep in the crime was not established and no substantive evidence exists against him, which would warrant his prosecution with a good chance of conviction. This order had left the complainant aggrieved and he has filed the present revision petition, notice of which was given to the State.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

The impugned order is well reasoned, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity in the said order, which might have called for interference by this Court, while exercising the revisional jurisdiction.

The revision petition is found to be without any merit and the same stands dismissed.

8.10.2018
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No