

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

CRR-1401-2018(O&M)

Date of decision:-11.7.2018

Pooja Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr.Amit Jaiswal, Advocate
for the petitioner.

H.S. MADAAN, J.

Feeling aggrieved by order dated 23.2.2018 passed by the Court of learned Additional Sessions Judge (Exclusive Court for Heinous Crimes Against Women and Children), Yamuna Nagar at Jagadhri dismissing application under Section 319 Cr.P.C. for summoning of Nitya Nand Tiwari as an additional accused, the complainant has brought the present revision petition.

I have gone through the impugned order. The trial Court has observed that Nitya Nand Tiwari is father of accused Vishal Tiwari; that the latter on 25.12.2012 had allegedly maintained forced physical relations with the complainant but that was in absence of his parents so it cannot be said that for the alleged act, his father (Nitya Nand Tiwari) conspired with him in any manner and Nitya Nand Tiwari had no role for the act of rape allegedly committed on 25.12.2012. It has further been

observed that except the bald statement of complainant, there is nothing on record to show that how and in which manner, Nitya Nand Tiwari had abetted his son to commit such crime; that no date, time and specific month or year have been detailed on file for proving the visits of third persons at the instance of Nitya Nand Tiwari and there are major contradictions in the statement of complainant recorded on 9.5.2017 under Section 164 Cr.P.C. and her statement recorded in the Court during trial. It has further been observed that a small suspicion or doubt is not sufficient to summon a person as an additional accused observing that the complainant is in relationship with accused Vishal Tiwari since 2011, whereas the complaint was filed in the year 2017. The trial Court has noticed that there is feeble evidence on record against Nitya Nand Tiwari, the proposed accused, in respect of his involvement in the sexual exploitation of complainant by his son Vishal Tiwari, therefore, essential ingredients for presuming the commission of offences punishable under Sections 376-D, 120-B and 370 IPC were lacking as regards Nitya Nand Tiwari and no prima facie case was made out against him to summon him as an additional accused. The trial Court has taken into view the settled law on the subject and considered the facts and circumstances of the case while passing the impugned order declining the application under Section 319 Cr.P.C.

The law is settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise. The impugned order is

well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law.

In the present case, I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it. The order is certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned order.

Resultantly, the revision petition stands dismissed.

11.7.2018

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No