

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

CRR-2609-2018

Date of decision:-17.8.2018

Sonam

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Argued by: Mr.Ravinder Phogat, Advocate
for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against the order dated 6.7.2018 passed by the Court of learned Additional Sessions Judge, Jhajjar vide which she had dismissed an application under Section 319 Cr.P.C. filed by complainant Sonam for summoning of respondents No.2 to 9 as additional accused to face trial along with other accused.

Briefly stated, facts of the case as per prosecution version are that the FIR in question was got registered by complainant Sonam daughter of Mahender Singh, resident of Ward No.6, Charkhi Dadri, District Bhiwani by making a statement to the police stating therein that she was married with Naresh Yadav, resident of Bhurthala Kosli and the couple was blessed with a son; that Naresh Yadav had died in a road accident, thereafter, she is started residing with her parents at Charkhi Dadri; that a year earlier her marriage was solemnized through Ramesh

son of Laxmi Narain, resident of Khari Khummar, District Jhajjar with his cousin brother namely Ramesh s/o Ram Mehar, resident of Kheri Khummar on 18.8.2015, as such, the complainant started residing together with Ramesh as his wife; that after some days of that marriage, her father-in-law, who was at home with no other family member being there except the complainant, then Ram Mehar told the complainant that since first wife of Ramesh did not agree to what he said, as such, he had killed her and if the complainant also did so, then she would face the same consequences, as such her father-in-law raped her many times under threat stating that if she told any one, then she would face the bad consequences. According to the complainant after some time when Ramesh son of Laxmi Narain, who was mediator came to their house then she informed him everything, then said Ramesh told her that brother of complainant had insulted him when they were serving in the ship and for that reason, he had taken revenge; that said Ramesh showed a video film of complainant and her husband with regard to their physical relations and tried to blackmail her. According to the complainant, her husband Ramesh came home under influence of liquor on 3.12.2015 in the evening and he did unnatural sex with her against her wishes; that he has a beer bottle in his hand and poured beer on her private parts doing unhuman activities; that when she opposed then he threatened to kill her; that his husband told her that he had not solemnized marriage with her and would keep her as a concubine; that on 4.12.2015 sisters of Ramesh, husband of complainant, namely, Manju, Parmila and Annu along with their husbands Krishan, Shilu and Rajender came there. According to the complainant, she told the

entire story to them and showed bed room to them as well as bed-sheet, which was blood stained; that Rajender and Vidhyawati, mother-in-law of the complainant removed all those clothes and burnt them, whereas Ramesh husband of the complainant threw the beer bottle; that after some time Rajender showed the complainant a video of complainant and her husband maintaining physical relations; that Rajender threatened the complainant that she better live in this house silently otherwise she would be killed like first wife and that video would be shown to all. According to the complainant, she returned to her parental house but did not disclose anything to them due to fear; that on 13.3.2016, her husband Ramesh and his cousin brother Ramesh along with friend Pardeep son of Om Parkash came there while they were under the influence of liquor; that they tried to blackmail her family after showing them video and tried to take her back to the matrimonial home. According to the complainant, she apprehends danger to her life.

On registration of the formal FIR, the matter was investigated. However, only three persons namely Ramesh son of Ram Mehar, Ram Mehar son of Kanhaiya Lal and Vidhyawati wife of Ram Mehar were challaned, whereas names of other remaining eight accused were kept in column No.2 of the report under Section 173 Cr.P.C.

During the trial against the accused challaned, an application under Section 319 Cr.P.C. was filed to summon the remaining persons named in the FIR as additional accused, which was dismissed by the trial Court vide the impugned order leaving the complainant aggrieved and she has filed the present revision petition.

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

The impugned order is quite detailed one in which facts of the case are mentioned. The legal parameters given in landmark judgment on the subject by Hon'ble Supreme Court, i.e. **Hardeep Singh Versus State of Punjab and others, 2014(1) R.C.R.(Criminal) 623** have been discussed while coming to the conclusion that the evidence available on record does not warrant summoning of additional accused. The operative part of the order runs as follows:

*When facts of the present case are examined in the light of the principles laid down in **Hardeep Singh Versus State of Punjab's case (supra)**, it becomes clear that the evidence led by the prosecution in the shape of sworn deposition of PW1 complainant falls short of the standard of making out a case for summoning of additional accused sought to be summoned. Needless to say that the complainant moved the complaint Ex.PW1/A to the police and, thereafter, due investigation was carried out and proposed accused Ramesh son of Laxmi Narain, Manju, Promila and Anju daughters of Ramehar, Krishan son of Hawa Singh, Sheelu son of Baru Ram, Rajender son of Hawa Singh and Pardeep son of Om Parkash were found innocent. During the course of trial, the complainant Sonam examined herself as PW1 and reiterated her allegations as set out in the complaint and no further substantive evidence has been*

brought on record to prima facie prove the allegations levelled against the proposed accused Ramesh son of Laxmi Narain, Manju, Promila and Anju daughters of Ramehar, Krishan son of Hawa Singh, Sheelu son of Baru Ram, Rajender son of Hawa Singh and Pardeep son of Om Parkash. Moreover, the proposed persons were alleged to have been residing separately and they were the sisters-in-laws, the mediator of marriage and the relative of accused already facing trial and now-a-days there is a tendency to rope the entire family as well as the relatives of accused in such like cases. Hence, keeping in view the aforesaid discussion and observation, it is held that no ground is made out to allow the application moved by the complainant for summoning proposed accused Ramesh son of Laxmi Narain, Manju, Promila and Anju daughters of Ramehar, Krishan son of Hawa Singh, Sheelu son of Baru Ram, Rajender son of Hawa Singh and Pardeep son of Om Parkash as an additional accused in the present case. Accordingly, the application stands dismissed being devoid of merit. Now remaining PWs be summoned for 31.7.2018 and 03.08.2018 accordingly.

The law is well 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.

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.

Therefore, criminal revision petition challenging that order cannot survive and is dismissed accordingly.

17.8.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No