

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

CRR No.3457 of 2018 (O&M)

Date of Decision: October 23, 2018

Major Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Munish Khanngwal, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. This is a criminal revision that has been filed against the order dated 14.09.2018 passed by the Sessions Judge, Ferozepur whereby, the application filed by the prosecution 319 Cr.P.C. has been allowed and the petitioner herein has been summoned as additional accused to face trial in case FIR No.124 dated 04.09.2017, under Sections 363, 366, 376-D, 120-B of Indian Penal Code, registered at Police Station Gurhar Sahai.

2. Notice of motion.

3. At this stage, Mr. P.P.S. Duggall, Advocate puts in appearance on behalf of the complainant and files the power of attorney, which is taken on record.

4. Learned counsel appearing on behalf of the petitioner herein would contend that the petitioner has been falsely implicated in the present

case. It is argued that the court below has ignored the fact that the petitioner was found innocent in the cancellation report filed by the police on 14.10.2017 and the story narrated by the complainant is totally different from the version narrated in the FIR. It is also contended that there is considerable delay in lodging of the FIR.

5. Per contra, learned counsel for the complainant argues that the impugned order passed by the trial court is well reasoned and the instant criminal revision is liable to be dismissed.

6. I have heard learned counsel for the parties.

7. The trial court, in the impugned order dated 14.09.2018 has observed as under;-

“5. Now, coming to the merits of the application. It is worth while to mention herein that in her statement Ex.P1 made before the police, complainant/prosecutrix has stated that she and her sister (other victim) are unmarried. Major Singh accused used to visit their house. He had developed love affair with her as well as her sister. On 20.08.2017, her parents had gone to Guru Hari Sahai for taking medicine. She and her sister were alone in the house. Major Singh came to her house on motorcycle and took her and her sister on motorcycle, on the pretext of solemnizing marriage. Major Singh left both of them with Prem Singh and his brother Harbhajan Singh. Prem Singh and Harbhajan Singh took both the sister on the bank of canals, where both the accused committed forcible rape upon them, turn by turn, without their consent. Both the complainant and her sister raised noise. The accused left both the sisters on the outskirts

of the village on 23.08.2017. It has also been stated in the aforesaid statement that the offence of rape has been committed by Prem Singh and Harbhajan, at the instance and in connivance with Major Singh, Sukhwinder Singh, Gurcharan Singh and Rinku.

6. *The aforesaid statement Ex.P1 was made the basis of the FIR. Complainant stepped into the witness box as PW1 and her sister appeared as PW2. Both these witnesses (victims) deposed on similar lines as that of statement Ex.P1 made by the complainant before the police.*

7. *A conjoint reading of statement Ex.P1 made by the complainant (victim) before the police and the statements made by the complainant and her sister lead this court to arrive at a conclusion that there are sufficient grounds to summon Major Singh and Harbhajan Singh as accused in this case. Major Singh took both the victims on his motorcycle on the pretext of solemnizing their marriage and left them with Prem Singh and Harbhajan Singh, who forcibly committed rape upon the victims without their consent.”*

7. The law is now well settled as regards summoning a person as an additional accused under Section 319 Cr.P.C. The power to summon a person as an additional accused is undisputed, but the same has to be exercised sparingly, with caution, and to be exercised in order to ensure that the culprit does not get away. Reliance in this regard, has been placed upon judgments rendered in ***Hardeep Singh vs. State of Punjab and others, 2014 (1) R.C.R. (Criminal) 623 and Barjinder Singh vs. State of Rajasthan, (2017) 7 SCC 706.***

8. In the present case, the complainant(victim) has levelled specific allegation against the petitioner herein in the FIR as well in the statement recorded before the trial court, which is duly corroborated by the her sister (other victim). As per the allegations, it was the petitioner who took away both the victims from their house on the pretext of solemnizing marriage and left them with Prem Singh and Harbhajan Singgh, who committed forcible rape upon them, without their consent. In such a way, a specific role has been attributed to the petitioner herein. There is sufficient and cogent evidence available on the record against the petitioner herein.

9. In view of the above discussion, this court is of the considered view that the petitioner herein has been rightly summoned by the trial court as an additional accused under Section 319 Cr.P.C. This court does not find any infirmity or illegality in the impugned order so passed.

10. Dismissed.

11. Anything observed or said by this court is only for the purpose of deciding the present criminal revision and shall have no affect on the merits of the case.

October 23, 2018

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**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No