

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

CRR-3691-2018 (O&M)

Date of Decision: 01.11.2018

Shehnaz

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Mazlish Khan, Advocate
for the petitioner(s).

ANITA CHAUDHRY, J

CRM-39258-2018

The instant application has been filed under Section 5 of Limitation Act for condonation of delay of 23 days in filing the criminal revision.

In view of the reasons mentioned in the application, delay of 23 days in filing the criminal revision is condoned.

Application stands disposed of.

CRR-3691-2018

The petition assails the order dated 20.07.2018 vide which the application filed under Section 319 Cr.P.C. has been dismissed.

Counsel for the petitioner contends that the petitioner had named four persons who had kidnapped and raped her in 2012 but the police had challaned only two persons and the petitioner in her statement PW-8 had again named them and thereafter, an application under Section 319

Cr.P.C. was filed which has been dismissed.

A perusal of the FIR shows that the incident is said to have taken place in 2012. There is no specific date when the kidnapping took place. The parents also did not lodge a missing report. The FIR had been filed by the victim in October, 2016. The allegations were that she had gone out to answer the call of nature when the accused who were present in a white van forcefully put her in the van and committed rape and made a video. She further states that she got pregnant from Sajid and when she told him about the pregnancy, the pregnancy was got aborted a year ago and when she got the opportunity, she managed to come out of the house and reported the incident.

The victim was missing from the house for over four years. In her statement in the Court, she had admitted that they had approached the High Court for protection. The allegations made by her were that a false *Nikahnama* was produced. The police after verifying the facts, filed the challan only against two persons.

The principals have been settled in '***Hardeep Singh Vs. State of Punjab and others (2014)3 SCC 92***' case. The court can summon a person not named in the FIR or a person though named in the FIR but not charge-sheeted but for that the evidence has to be more than *prima facie*. The Court cannot summon additional accused only because they have been named in the FIR or in the statement made in the Court. The trial Court had considered the report filed by the police and had examined the evidence and found the evidence to be not acceptable so far as the additional accused were considered. The petitioner was unable to lead any evidence which was more than *prima facie*. No additional material was placed by the petitioner

to show the complicity of the additional persons named by the prosecutrix. There had to be strong cogent evidence for summoning the additional accused. The Court cannot allow the application in a casual manner. The power has to be exercised sparingly and when the circumstances are extraordinary.

I find no infirmity in the order.

The petition is dismissed in limine.

November 01, 2018

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No