

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

CRM-M-4135 of 2019.

Decided on:- January 30, 2019.

Paramjit Kaur.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Gautam Bhardwaj, Advocate
 for the petitioner.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 482 Cr.P.C. impugning order dated 02.08.2017 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Amloh, whereby the application filed by the petitioner-complainant under Section 319 Cr.P.C. seeking summoning of respondents No.2 and 3, namely, Piare Lal and Harmesh Kumar @ Ramesh Kumar, was dismissed.

Challenge has also been laid to order dated 16.10.2018 (Annexure P-5) passed by learned Additional Sessions Judge, Fatehgarh Sahib vide which the criminal revision filed by the petitioner-complainant against the aforesaid order dated 02.08.2017, was dismissed.

Briefly stated, FIR No.104 dated 01.06.2012 under Sections 406 and 498-A IPC was registered at Police Station Fatehgarh Sahib at the behest

of petitioner-complainant Paramjit Kaur. As per the FIR, marriage of the petitioner was solemnized with accused Inderjit Singh on 21.08.2011. This was the second marriage of the couple. However, immediately after the marriage i.e. 10-15 days thereafter, her in-laws started harassing the complainant for dowry despite the fact that her parents had spent sufficient money in the marriage.

The respondents No.2 and 3, namely, Piare Lal and Harmesh Kumar @ Ramesh Kumar sought to be summoned by way of application under Section 319 Cr.PC are partners in the property dealing business with Davinder Singh, who is father-in-law of the petitioner-complainant. The police has not submitted Challan against them despite the fact that they were named in the FIR, though their names were kept in Column No.2 of the Challan.

Learned counsel for the petitioner has argued that the trial Court has wrongly dismissed the application under Section 319 Cr.P.C. moved by the petitioner-complainant. Similarly, the revisionary Court has also declined prayer of the petitioner. The respondents No.2 and 3 have played active role in the case as they have instigated the other accused in the commission of crime and in this manner, they participated in commission of crime.

Having heard learned counsel for the petitioner, this Court finds that no specific role has been attributed to respondents No.2 and 3. The marriage between the petitioner and Inderjit Singh is a second marriage and in such like marriages, instead of demand of dowry, compatibility is generally preferred. Moreover, merely because the respondents No.2 and 3 are partners in the business of property dealing with the father-in-law of the petitioner, it

cannot be termed that they were instrumental in raising the demand of dowry particularly when they are not to be benefitted by such demand.

Hon'ble Supreme Court in ***Pepsi Foods Limited and another Versus Special Judicial Magistrate and others-(1998) 5 Supreme Court Cases 749*** has held as under:

“Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

In ***Hardeep Singh Versus State of Punjab (2014) 3 SCC 92***, it has been held by the Apex Court that the degree of satisfaction for invoking Section 319 Cr.P.C. should be of more than a prima-facie case, as exercised at the time of framing of charge, but short of satisfaction to an extent that

evidence, if not rebutted, may lead to conviction of the person sought to be added as accused.

Therefore, this Court finds that there is no illegality in the order dated 02.08.2017 (Annexure P-3) passed by learned Sub Divisional Judicial Magistrate, Amloh as well as the order dated 16.10.2018 (Annexure P-5) passed by learned Additional Sessions Judge, Fatehgarh Sahib, which may warrant interference by invoking the jurisdiction of this Court under Section 482 Cr.P.C.

Accordingly, the impugned orders passed by learned Courts below are affirmed and the present petition, being devoid of any merit, is dismissed.

January 30, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No