

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

**CRM No.M-30756 of 2015 (O&M)
Date of Decision: February 27, 2019**

Ravinder Kaur and others

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Navjot Singh, Advocate
for the petitioners.

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.B.S.Jatana, Advocate
for the complainant.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondent State of Punjab, for quashing of impugned order dated 16.08.2012 passed by learned Judicial Magistrate Ist Class, Jagraon, vide which the petitioners were summoned as additional accused and order dated 24.07.2015 passed by learned Addl. Sessions Judge, Ludhiana, vide which the revision petition filed by the petitioners was dismissed.

Notice of motion was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that during the pendency of the trial against Charanjit Singh and Paramjit Singh, an application under Section

319 Cr.P.C. was filed for summoning Ravinder Kaur, Jaspal Singh, Jaspreet Kaur, Manpreet Kaur and Pardeep Singh as additional accused. This application was filed on the statement of PW-1 Manjinder Singh. Earlier, the Court had dismissed the application filed by the State on 03.01.2012 and against said order, a revision was preferred and vide order dated 24.04.2012, learned Addl. Sessions Judge, Ludhiana, set aside the order dated 03.01.2012 and it has been ordered that application of the State be decided afresh in the light of discussion made in the said order. Thereafter, learned Magistrate vide impugned order dated 16.08.2012, held that it has been specifically observed that the statement of the complainant recorded in the court discloses the role of the persons mentioned in the complaint Ex.PA as well as the application filed U/s 319 Cr.P.C. and thus there was sufficient material on record to allow the application under Section 319 Cr.P.C. Learned JMIC, Jagraon, in view of the above observation of learned Addl. Sessions Judge, Ludhiana, accepted the application and accused were ordered to be summoned to face trial along with Charanjit Singh and Paramjit Singh. Aggrieved from order dated 16.08.2012, a revision petition was filed before the Court of Session and learned Addl. Sessions Judge, Ludhiana, vide impugned order dated 24.07.2015 dismissed the revision petition.

The perusal of impugned order dated 16.08.2012 passed by learned JMIC, Jagraon, shows that earlier learned Magistrate dismissed the application under Section 319 Cr.P.C. As in the revision petition, order has been passed to decide the application afresh in view of the observations given by learned Addl. Sessions Judge, therefore, learned Magistrate has not discussed anything but passed the order summoning the petitioners.

Nothing has been discussed on merits in the impugned order dated 16.08.2012.

The perusal of the record shows that FIR was registered on the basis of application given against Charanjit Singh, unknown wife of Charanjit Singh, Paramjit Singh, unknown wife of Paramjit Singh, Pardeep Singh, unknown wife of Pardeep Singh and Jaspal Singh. It is stated by Maninder Singh in the application that he has two sons, elder son is Gurinderjit Singh and younger one is Pardeep Singh. Gurinderjit Singh went to Canada in the year 2006 for studying. He used to call the complainant and tell that if his marriage would be performed with some girl of Canada, then he can stay in Canada as permanent resident. When the complainant was searching for a girl for his son, Paramjit Singh and his wife met him in some marriage at village Boparai Kalan. Complainant talked with Paramjit Singh regarding this matter, who told him that Charanjit Singh and his wife, brother of Charanjit Singh namely Pardeep Singh and his wife, and Jaspal Singh can arrange some Canadian resident girl to marry with complainant's son Gurinderjit Singh but for that Paramjit Singh and his wife have to go to their village to talk with Charanjit Singh and his family, where they will call the complainant. Complainant reposed faith in them as Paramjit Singh and his wife have sent daughter of complainant's brother-in-law (Sadhu) to Canada permanently. On receiving message on 05.03.2009, complainant along with Davinder Singh and Sukhbir Singh reached at the house of Charanjit Singh. Paramjit Singh and his wife, Charanjit Singh and his wife, Charanjit Singh's brother Pardeep Singh and his wife and Jaspal Singh were present there. All of them told the complainant in the presence

permanently in Canada and they can perform her marriage with Gurinderjit Singh but ₹32,50,000/- is to be spent for this purpose and they also put a condition upon the complainant that he would have to pay ₹12 lakhs in cash to them within one week so that the talks of relation will be finalized. As per the FIR, complainant handed over an amount of ₹11,60,000/- to Charanjit Singh and his wife in the presence of witnesses and all the accused after counting, handed over the same to Jaspal Singh. When complainant demanded some writing from accused as a proof against the amount, then Charanjit Singh entered a cheque No.045563 dated 12.03.2009 for ₹11,60,000/- of UTI Bank Limited in complainant's name but handed over him only a photostat copy and original cheque was kept by Charanjit Singh with him. On 17.03.2009, Charanjit Singh and his wife, Pardeep Singh and his wife came to complainant's house and told that they have performed paper marriage of complainant's son Gurinderjit Singh with Canadian girl and demanded the remaining amount of ₹15 lakhs. Again, complainant handed over the amount to Charanjit Singh and his wife, Pardeep Singh and his wife and they have counted the same and handed over to Jaspal Singh. Charanjit Singh told that he is going to Canada shortly and he will get remaining amount of 12000 dollars from Gurinderjit Singh.

The perusal of the FIR shows that main accused as per FIR are Charanjit Singh, Paramjit Singh and Pardeep Singh. Money was also handed over mainly to Charanjit Singh. The perusal of the FIR further shows that active role has been played by Charanjit Singh, Paramjit Singh and Pardeep Singh. Charanjit Singh and Paramjit Singh have already been challaned. No overt act is mentioned against Ravinder Kaur, Jaspal Singh,

names of wives of Charanjit Singh, Paramjit Singh and Pardeep Singh nor their names have been mentioned in the FIR. Rather, it is written as wife of Charanjit Singh, wife of Paramjit Singh and wife of Pardeep Singh. Ravinder Kaur, Jaspal Singh, Jaspreet Kaur and Manpreet Kaur never demanded any money nor induced the complainant to deliver money to accused. The main talks was with Charanjit Singh, Paramjit Singh and Pardeep Singh.

For summoning additional accused under Section 319 Cr.P.C., standard of proof required is somewhat more than prima facie case. From the perusal of the FIR, it is clear that there is no inducement or allurement by Ravinder Kaur, Jaspal Singh, Jaspreet Kaur and Manpreet Kaur nor any money was handed over to them. They have been impleaded being close relatives of other accused.

In view of the above discussion, I find that the impugned order dated 16.08.2012 passed by learned JMIC, Jagraon as well as order dated 24.07.2015 passed in revision by learned Addl. Sessions Judge, Ludhiana, are not as per evidence and law qua petitioners Ravinder Kaur, Jaspal Singh, Jaspreet Kaur and Manpreet Kaur and the same are set aside qua them whereas, qua petitioner Pardeep Singh, these impugned orders are as per evidence and law as role has been mentioned in the FIR qua him.

Therefore, present petition stands allowed qua petitioners Ravinder Kaur, Jaspal Singh, Jaspreet Kaur and Manpreet Kaur and it stands dismissed qua petitioner Pardeep Singh.

February 27, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No