

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

CRM-M-7538 of 2016.

Decided on:- July 05, 2019.

Amarjit Kaur.

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

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

Present:- Mr. Y.M. Bhagirath, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Mohit Garg, Advocate
for respondents No.5 and 6.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 482 Cr.P.C. impugning order dated 02.06.2015 (Annexure P-3) passed by learned Chief Judicial Magistrate, Roopnagar, whereby the application filed by the petitioner-complainant under Section 319 Cr.P.C. seeking summoning of respondents No.4 to 6, namely, Baljinder Singh, Harbhajan Kaur and Kiranjeet Singh, was dismissed.

Challenge has also been laid to judgment dated 14.10.2015 (Annexure P-5) passed by learned Sessions Judge, Ropar vide which the

criminal revision filed by the petitioner-complainant against the aforesaid order dated 02.06.2015, was dismissed.

Vide order dated 06.02.2017 passed by this Court, the present petition was dismissed qua respondents No.3 and 4 as not pressed. Therefore, the petition now survives qua respondents No.5 and 6 only.

Learned counsel for the petitioner has argued that there are specific allegations against respondents No.5 and 6 regarding demand of dowry and torture. The Courts below have dismissed the application of the petitioner under Section 319 Cr.PC on one of the ground that in the divorce proceedings pending between the petitioner and her husband, the petitioner had submitted an affidavit, wherein she has not levelled any allegation against her in-laws and respondent Kiranjit Singh. He has referred paragraph No.9 of the said affidavit to state that there are allegations of harassment on account of demand of dowry.

Learned counsel for the petitioner has further argued that though the husband of the petitioner has been acquitted of the charge framed against him by the trial Court, but against the said judgment of acquittal, the petitioner has already preferred a revision, which is pending before this Court. Therefore, this petition be heard along with that revision.

On the other hand, learned counsel for respondents No.5 and 6 has argued that there are no specific allegations against respondents No.5 and 6 regarding harassment of the petitioner on account of demand of dowry and the allegations are general in nature.

I have heard learned counsel for the parties.

It is a conceded fact that that the husband of the petitioner has been acquitted of the charge framed against him by the trial Court. Though the petitioner has filed a revision before this Court against the said judgment of acquittal, but pendency of said revision has no relevance so far as the present petition is concerned. Therefore, no ground is made out to hear the present petition along with the revision filed by the petitioner against the judgment of acquittal.

Moreover, in her affidavit filed during the divorce petition, though the petitioner has submitted that the conduct of her husband and his family members remained cruel towards her and they often demanded dowry, but even in the said affidavit, no specific date or time regarding her harassment on account of demand of dowry has been mentioned by the petitioner. Thus, the allegations levelled by the petitioner in the said affidavit are not specific, but are general in nature.

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 02.06.2015 (Annexure P-3) passed by learned Chief Judicial Magistrate, Roopnagar as well as the judgment dated 14.10.2015 (Annexure P-4) passed by learned Sessions Judge, Ropar, which may warrant interference by invoking the jurisdiction of this Court under Section 482 Cr.P.C.

Accordingly, the present petition, being devoid of any merit, is dismissed.

July 05, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No