112.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1423-2019
Date of decision:09.07.2019.

NAVEEN ... Petitioner

versus

STATE OF HARYANA .... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Shailender Singh Momi, Advocate,
for the petitioner.

HARI PAL VERMA, J.*(Oral)*

Petitioner has filed the present revision petition against the order dated 07.01.2019 passed by learned Additional Sessions Judge, Charkhi Dadri whereby on an application filed by the complainant under Section 319 Cr.P.C., the petitioner has been summoned to face trial in FIR No.20, dated 04.05.2018 registered under Sections 363, 366-A, 342, 506, 376-D of IPC and Section 6 of POCSO Act, 2012, with the Police Station Women, Charkhi Dadri.

The aforesaid FIR was registered at the behest of father of the victim, namely, Liyakat son of Yasin, resident of Village Mai Kalan, Charkhi Dadri. As per the FIR, during the intervening night of 3rd and 4th May of 2018, when the daughter of the complainant, after giving him tea at his shop, was returning back, then 3-4 persons, namely, Bir Singh son of Suresh, Sonu son of Nityanand, Naveen (the petitioner herein) and one unknown person, in a bolero vehicle bearing registration No.HR-80-4100, kidnapped the daughter of the complainant. Though the complainant tried to

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chase the vehicle but to no effect and all the accused succeeded in kidnapping the victim-Khatiza. The victim was minor at the time of incident. The complainant searched his daughter here and there and thereafter, he found her in a room situated in the field of Jorawar son of Mir Singh. All the accused were also present there. When the complainant asked the victim, she informed that Bir Singh, Sonu, Naveen (petitioner) and one another boy committed rape upon her one after the other and they also threatened her that if she will disclose this fact, her family will be done to death.

Counsel for the petitioner has argued that in fact the victim was in friendship with Bir Singh son of Suresh. He has referred to one letter written by the victim. The petitioner has falsely been implicated in the case for the reason that he happens to be the friend of Bir Singh. He has referred to the judgment passed by the Hon'ble Apex Court in ***Hardeep Singh Versus State of Punjab (2014) 3 SCC 92*** to contend that there was no material with the trial Court to summon the petitioner as there is no evidence against him. Merely because he has accompanied the main accused-Bir Singh is no ground to summon him more particularly when the police has found him innocent during investigation.

I have heard learned counsel for the petitioner.

This Court finds that there is specific allegation against the petitioner. The petitioner not only accompanied the other accused including Bir Singh, but there is allegation of commission of rape against him as well. Even the prosecutrix while appearing as PW1 has reiterated in her statement that all the accused committed rape upon her one after the other.

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Therefore, there being a specific allegation of commission of rape against the petitioner, this Court does not find any illegality in the order passed by the court below whereby the petitioner has been summoned as an accused in an application under Section 319 Cr.P.C.

The present revision petition is, accordingly, dismissed.

However, it is made clear that the observation made hereinabove shall not be construed as an expression on the merits of the case and is limited for the disposal of the present revision petition only.

(HARI PAL VERMA)
JUDGE

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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No

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