IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-4869-2017 (O&M)
Date of decision: 06.11.2019

Satinder Kaur

... Petitioner

Vs.

State of Punjab and another

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mohd. Sartaj Khan, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

Mr. Bipan Ghai, Sr. Advocate with
Mr. Deepanshu Mehta, Advocate
for respondent No.2.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this revision petition is for setting aside the order dated 11.12.2017 passed by the trial Court, vide which application filed by the petitioner, seeking discharge, was dismissed and charges have been framed against her under Sections 307, 328, 120-B of the Indian Penal Code (for short 'IPC').

Brief facts of the case are that FIR No.30 dated 07.03.2009 under Section 328 IPC, Police Station Goraya, District Jalandhar was registered at the instance of complainant Dilbag Singh with the allegations that he is aged about

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85 years and was running a school on Bara Pind Road, Goraya. He kept Avtar Singh as servant, who was also working as Driver in the school. Every morning, he used to bring butter milk (lassi) for the complainant from the house of Sarwan Singh, ex-Sarpanch, Bara Pind. On 07.03.2009, he brought butter milk and the complainant and his daughter Balwinder Kaur drank the butter milk and found that some liquid like mercury was mixed in the same. The complainant and his daughter went to Civil Hospital, where the doctor gave them treatment to vomit and they were admitted in the hospital for further treatment.

Thereafter, the police, during the investigation, recorded statement of Balwinder Kaur, who stated that she is adopted daughter of Dilbag Singh, vide adoption deed dated 08.09.1980 and her marriage was solemnized with A.S. Shergill. Her mother Narinder Kaur @ Gian Kaur had died in the year 1998. The complainant-her father had executed a registered Will on 06.09.1978 in favour of Narinder Kaur @ Gian Kaur and thereafter, he executed a registered Will in her favour on 11.09.2008, being adopted daughter. The property of the complainant was joint with his brother Rachhpal Singh @ Hari Rachhpal, who died in Canada in the year 2004 and his share was inherited by his three sons namely Shivdev Singh, Jagdev Singh and Harpreet Singh. Since her father wanted to partition the land, he called his nephews Shivdev Singh and Harpreet Singh to his house and they stated that they will inform after consultation with their third brother Jagdev Singh, who was residing in Canada and thereafter, the incident took place, when their domestic servant Sukhni daughter of Sat Narain gave them butter milk, mixed with mercury. She further stated in the statement that during the investigation, Sukhni admitted that she

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had given the butter milk mixed with mercury to them on the asking of Shivdev Singh, in conspiracy with Jagdev Singh, Harpreet Singh and petitioner Satinder Kaur.

Learned counsel for the petitioner has argued that name of the petitioner figured in the supplementary statement of Balwinder Kaur under Section 161 Cr.P.C., which was recorded much after registration of the FIR and thereafter, the petitioner was summoned under Section 319 Cr.P.C., when the statement of Balwinder Kaur was recorded as PW8. It is further argued that initially, the petitioner filed CRR-536-2017, challenging the order dated 09.01.2017 passed in an application under Section 319 Cr.P.C., however, during pendency of the said petition, the petitioner was declared as proclaimed offender and the revision petition was disposed of by this Court vide order dated 10.08.2017/26.10.2017. Thereafter, the petitioner was granted the concession of anticipatory bail vide order dated 17.11.2017 passed in CRM-M-43687-2017.

The petitioner, thereafter, filed CRR-4536-2017, which was disposed of vide order dated 07.12.2017, with permission to move an application before the trial Court for discharge, in terms of the order dated 10.08.2017 passed in CRR-536-2017.

Learned counsel for the petitioner has submitted that the petitioner moved an application for discharge under Section 239 Cr.P.C., which was, however, dismissed by the trial Court, by making the following observations: -

> *"It is the case of the applicant that she was summoned under Section 319 Cr.P.C by my learned Predecessor Ms. Gurmeet*

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Kaur, learned Additional Sessions Judge, Jalandhar vide order dated 19.01.2017. The applicant had earlier filed revision-petition against the said order, which was disposed of by the Hon'ble High Court. The applicant claims that she was not named by the complainant Dilbagh Singh or his daughter Balinder Kaur in the FIR. Challan was also presented against her co-accused. However, during the trial, supplementary statement of PW Balinder Kaur was recorded, wherein the applicant was named by her as one of the co-accused. The applicant claims that she has been falsely implicated in this case. There is no evidence against her and she has been involved in this case at a later stage. She therefore, prayed that she may be discharged.

I have heard learned counsel for the applicant and have gone through the file carefully.

On the basis of the statement of Balinder Kaur recorded during investigation on 15.04.2011 and on the basis of the statement of PW Balinder Kaur recorded in the court, wherein she has attributed a specific role to the applicantaccused Satinder Kaur, she was summoned by my learned Predecessor vide order dated 19.01.2017. The applicant filed revision-petition against the said order, which has already been disposed of by the Hon'ble High Court. In these circumstances, in the light of the evidence available against the applicant on record, no ground is made out for discharging the applicant-accused under Section 239 Cr.P.C.

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Accordingly, application is dismissed."

Learned counsel for the petitioner has further submitted that thereafter, on the same day, charges under Sections 307, 328, 120-B IPC were framed against the accused persons. It is next argued that the petitioner has been falsely implicated and there is a delay in recording the supplementary statement, in which the petitioner has been nominated and therefore, she is liable to be discharged.

In reply, learned State counsel, assisted by learned senior counsel for respondent No.2-complainant, however, opposed the prayer on the ground that Balwinder Kaur, while recording her statement under Section 161 Cr.P.C. as well as while appearing as PW8, had taken a consistent stand that the petitioner was involved in the incident, as she had conspired with co-accused Jagdev Singh, Harpreet Singh, Shivdev Singh and Sukhni daughter of Sat Narain. It is argued that since prima facie evidence has come on record, the trial Court has rightly dismissed the application for discharge and has framed the charges.

After hearing learned counsel for the parties, I find no ground to differ with the findings recorded by the trial Court, dismissing the application for discharge as well as framing charges against the petitioner.

(a) PW8 Balwinder Kaur has stated that co-accused Sukhni, a domestic servant, had administered mercury, by mixing it in the butter milk, to Dilbag Singh (deceased) and the petitioner, on the basis of statement of PW8, was summoned vide order dated 09.01.2017 passed by the trial Court.

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(b) The petitioner had challenged the order dated 09.01.2017 by way of filing a revision petition, which was disposed of with liberty to move an application for discharge, meaning thereby, the order was never set aside.

(c) Even while raising arguments for discharge, the petitioner could not produce any such cogent defence to show that she has been falsely implicated in the case.

In view of the above, considering the fact that since the case is now fixed for recording the prosecution evidence and the petitioner was summoned, after recording the statement of PW8 Balwinder Kaur, I do not find it to be a case falling within the guidelines laid down by the Hon'ble Supreme Court in **State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335.**

Accordingly, the present petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No

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