

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-47580-2019 (O&M)

Date of Decision:- 7.11.2019

Maya Devi

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Sharmila Sharma, Advocate, for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court challenging order dated 9.7.2019 passed by the learned Additional Sessions Judge, Sonipat whereby a revision petition filed by the petitioner challenging order dated 15.12.2018 passed by learned Judicial Magistrate 1st Class, Sonipat declining the application filed under Section 319 Cr.P.C., has been dismissed.
2. A few facts necessary to notice for disposal of this petition are that petitioner-Maya Devi lodged FIR No. 334, dated 31.8.2013,

registered at Police Station City Sonipat, District Sonipat, under Sections 420, 406, 494 and 506 IPC, alleging therein that her marriage has been solemnized with Kailash Chand on 26.3.1992 and two children were born out of the wedlock. It is alleged that on 7.12.1997, she was thrown out of her matrimonial home. It is further stated therein that although marriage of the petitioner with Kailash Chand was still subsisting and had not been dissolved by way of any divorce but her husband Kailash Chand solemnized marriage with one Jagwanti during the subsistence of his earlier marriage. It is further alleged that Patasho, Sheela, Rajwanti, Rishi, Randhir, Bala, Rajender, Kala, Jaipal and Tejpal @ Teju were also present at the time of marriage and had conspired with the accused for solemnization of his second marriage during the subsistence of his earlier marriage.

3. The matter was investigated by the police and upon conclusion of investigation challan was filed against Kailash Chand while the remaining accused were kept in column No.2. During the course of trial, after statement of the complainant had been recorded, an application was filed by the complainant through State seeking summoning of Patasho, Sheela, Rajwanti, Rishi, Randhir, Bala, Rajender, Kala, Jagwanti, Jaipal, Hardayal and Tejpal @ Teju with the aid of Section 319 Cr.P.C. which was however dismissed by the learned Judicial Magistrate 1st Class, Sonipat vide order dated 15.12.2018. The said order was challenged by the complainant by way of filing a revision petition but the same also came to be dismissed by the learned Additional Sessions Judge, Sonipat, vide

impugned order dated 9.7.2019 which has been impugned by way of filing the present petition.

4. Learned counsel for the petitioner has submitted that the Trial Court fell in error in declining the application while observing that since the complainant had not attended the second marriage of her husband, she would have no clue about the marriage and, therefore, no ground was made out for summoning the additional accused whereas the complainant has categorically deposed in her statement against the persons sought to be summoned as additional accused.
5. I have considered the aforesaid submissions addressed before this Court. It goes without saying that a person to be held responsible for having abetted or having conspired for commission of offence under Section 494 IPC is required to be attributed not only the knowledge that such person was contracting marriage during the subsistence of his earlier marriage but also that he had taken some steps knowingly for facilitating solemnization of the marriage. In other words the mere fact that some person had attended such marriage without having knowledge that the earlier marriage of the person getting married was still subsisting would not make him liable for offence under Section 494 IPC. In the present case there is no such evidence to show that the person sought to be summoned as additional accused had knowledge about the marital status of accused Kailash Chand being already “married” and also that despite knowing about the said status they had encouraged or facilitated him for solemnizing such marriage or had taken any other step in furtherance of said object.

Consequently, this court does not find any infirmity in order dated 9.7.2019 passed by learned Additional Sessions Judge, Sonipat and order dated 15.12.2018 passed by learned Judicial Magistrate 1st Class, Sonipat, and the same are hereby affirmed.

6. Finding no merit in the petition, the same is hereby dismissed.

November 7, 2019

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No