

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

**CRR-839-2019 (O&M)
Decided on : 26.02.2020**

Kajal

. . . Petitioner(s)

Versus

State of Punjab and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Maninder Singh Saini, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

The instant revision petition has been preferred against the order dated 01.03.2019, vide which the application moved under Section 319 Cr.P.C. seeking summoning of the respondents as additional accused to face trial in case FIR No. 197, dated 24.09.2018, under Section 376 IPC and Section 6 of the POCSO Act, 2012, registered at P.S. City Ferozepur, was dismissed by the learned Sessions Court, Ferozepur.

It was vehemently urged by the learned counsel for the petitioner that the impugned order has been passed by the trial Court by ignoring that the prosecutrix both in her Statement recorded under Section 164 Cr.P.C. before the trial Court as well as in the FIR had levelled specific allegations *qua* both the respondents-accused Darshana and Paramjit Kaur, who as per her had encouraged the main accused Gurpreet @ Gora to develop physical relations with her. It was further submitted that respondent No.2-Darshana, who was the mother of accused Gurpreet @ Gora not only encouraged him to develop physical relations with the prosecutrix on the pretext of solemnizing marriage with her, but after the prosecutrix conceived and was in the third month of pregnancy, respondent

No.2 – Darshana, forcibly got the pregnancy terminated. It was further submitted that respondent No.3 – Paramjit Kaur, after encouraging the accused Gurpreet @ Gora to develop physical relations with the prosecutrix on the pretext of solemnizing marriage, got accused Gurpreet @ Gora married with another girl.

I have heard learned counsel for the petitioner and gone through the impugned order as well as other material on record.

A perusal of the statement of the prosecutrix recorded under Section 164 Cr.P.C. and even in her testimony before the Court, reveals that she did not even obliquely allege any forcible abortion or termination of her pregnancy at the behest of respondent No.2 – Darshana. The only attribution *qua* both respondents No.2 & 3, was to the effect that the main accused Gurpreet @ Gora had established physical relations with her with the tacit approval of his mother i.e. respondent No.2 – Darshana and respondent No.3 – Paramjit Kaur had got the marriage of accused Gurpreet @ Gora, solemnized with another girl. No medical evidence was brought-forth *qua* the pregnancy of the prosecutrix or *qua* her pregnancy having been forcibly aborted/terminated by the accused Gurpreet @ Gora or his mother respondent No.2 – Darshana.

The power of summoning person(s) as an additional accused under Section 319 Cr.P.C. should not be exercised in a routine and mechanical manner. Rather the trial Court must be circumspect while exercising the extraordinary power envisaged under Section 319 Cr.P.C., only if it is satisfied that from the evidence on record sufficient grounds exist to show the involvement of the person(s) sought to be summoned as additional accused, in the commission of the crime.

In the case in hand, admittedly, both respondents No.2 & 3 were found innocent during investigation by the investigating agency and therefore, placed under column No.2 of the challan. Since there is no medical evidence to support the factum of forcible abortion or even pregnancy of the prosecutrix, merely, on the basis of the verbal accusations of the complainant, respondent No.2 – Darshana cannot be summoned as an additional accused to face trial. Even *qua* respondent No.3 – Paramjit Kaur, the only allegation levelled is that she got the marriage of accused Gurpreet @ Gora solemnized with another girl after luring the prosecutrix into having physical relationship with accused Gurpreet @ Gora. Even assuming that respondent No.3 had got the marriage of accused Gurpreet @ Gora solemnized with another girl, it would not be a sufficient ground to have her summoned as an additional accused by invoking the provisions of Section 319 Cr.P.C.

In the facts and circumstances of the case, I do not find any infirmity and perversity in the impugned order passed by the Court below, which would warrant the interference of this Court to exercise its revisional jurisdiction. Consequently, the instant revision petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

February 26, 2020

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*