

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

CRM-M-37017-2017(O&M)

Date of decision:-15.1.2020

Priyanka

...Petitioner

Versus

Krishan Lal and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Manish Verma, Advocate
for the petitioner.

Mr.Harsh Mehla, Advocate
for respondent No.1.

Ms.Harpreet Kaur, AAG, Haryana.

H.S. MADAAN, J.

Briefly stated, the facts of the case are that the present petitioner – Priyanka had submitted a written complaint to the police against Tony Rana @ Maninder Singh alleging that after administering some intoxicant, he had committed rape upon her. Formal FIR No.68 dated 6.3.2014 for the offences under Sections 376 and 328 IPC was accordingly registered with Police Station Chandimandir, Panchkula. The matter was investigated. However, the allegations levelled by the petitioner/prosecutrix were found to be false and it transpired that the present petitioner in conspiracy with Krishan Lal, Ramesh Kumar, Mukesh Raghav, Naresh Kumar and Sunny Garg had got recorded a false FIR against Tony Rana @ Maninder Singh. Therefore, the proceedings against them were initiated under Sections 182 IPC etc. and challan against them was prepared and filed in the Court.

Krishan Lal has filed a private complaint against Jagtar Singh, ACP, Traffic, Panchkula and others in the Court of Chief Judicial Magistrate, Panchkula. In that complaint, he had cited the present petitioner as a witness. She was summoned by the Court wherein she moved an application under Section 315 Cr.P.C. read with Article 20(3) of the Constitution of India seeking protection from appearing as a witness, which would be self incriminating. That application was accepted by the trial Magistrate.

Feeling aggrieved, the complainant in the private complaint had filed a revision petition in the Court of Sessions and learned Additional Sessions Judge, Panchkula accepted the revision petition vide order dated 7.6.2017 and set aside the impugned order and allowed the revisionist complainant to summon Priyanka, present petitioner as a witness with the observations that at the time of examination, the trial Court can decide whether answer to the question is incriminating against her or not and can disallow such question.

The present petitioner felt aggrieved by the said order and has knocked at the door of this Court by filing the revision petition under Section 482 Cr.P.C. praying that the order passed by Additional Sessions Judge, Panchkula be quashed and the order passed by the trial Magistrate be restored.

Notice of the petition was given to the complainant in the private complaint as well as State of Haryana, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

A perusal of the impugned order goes to show that it has been observed that the present petitioner, who was a complainant/prosecutrix in the FIR No.68 dated 6.3.2014 is not an accused in the private complaint filed by Krishan Lal against Jagtar Singh, ACP etc. It being so, she cannot seek protection under Article 20(3) of the Constitution of India. No situation would arise when she would be asked to be a witness against herself. Furthermore, if she feels that the question is incriminating against her, she can certainly refuse to reply to the same but a blanket protection cannot be granted to her as has been allowed by the trial Court. I find myself in agreement with learned Additional Sessions Judge, Panchkula in that regard. Learned trial Magistrate had wrongly allowed the request of petitioner, which wrong has been set aside by learned Additional Sessions Judge, Panchkula vide the impugned order. The order is quite detailed and well reasoned and does not suffer from any illegality or infirmity.

Section 482 Cr.P.C. deals with inherent powers of the High Court. No ground is there to exercise such powers in this case since the impugned order cannot be said to be abuse of process of the Court and no interference therewith in any manner is called for.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

15.1.2020
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No