

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

CRM-M-51874-2018
Decided on : 27.01.2020

Swaranjeet Kaur

..... Petitioner

Versus

Ashok Kumar & ors.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.S.Gill, Advocate
for the petitioner.

Manjari Nehru Kaul, J.

Instant petition has been filed under Section 482 Cr.PC for against the order dated 11.05.2017 vide which application under Section 319 Cr.PC for summoning the accused-respondents was dismissed by learned trial court and the revision petition against the aforesaid order was also dismissed by Addl. Sessions Judge, Sirsa vide order dated 24.09.2018.

Facts in brief are that accused Bhajan Lal, Milakh Raj and Narayani Bai along with respondent-accused Ashok Kumar, Karuna Rani @ Kanta @ Jaskaran, Balbir Chand, Seema Rani, Daler Singh, Veena Rani @ Manju Rani were alleged to have subjected the petitioner/complainant to physical and mental harassment on account of demand of dowry. The names of all the aforementioned accused found mentioned in FIR No.300 dated 31.10.2014 registered under Section 498-A/406/506/34 IPC at Police Station Sadar Dabwali, Sirsa. However, the investigating agency during investigation submitted the challan only against three accused namely

Bhajan Lal, Milakh Raj and Narayani Bai while the other accused i.e. respondents were exonerated as no evidence was found qua their involvement. When the petitioner stepped into the witness box as PW-1, she reiterated her allegations levelled against each of the accused including the respondents in the FIR. She then moved an application under Section 319 Cr.PC for summoning the respondent-accused.

Vide impugned orders dated 11.05.2017 and 24.09.2018, the Courts below dismissed the application under Section 319 Cr.PC by holding that only vague allegations had been levelled against the respondent-accused and there were no specific allegations of demand of dowry, which would warrant acceptance of the application under Section 319 Cr.PC.

Learned counsel for the petitioner has vehemently urged that the names of the respondent-accused were duly mentioned in the FIR in question along with the specific allegations against each of them, which clearly revealed that each of the respondent-accused had actively participated and connived with each other in the commission of offence under Sections 498-A/406/506/34 IPC and hence, they should have been challaned by the police at the first instance itself.

I have heard learned counsel for the petitioner and have gone through the impugned orders passed by the Courts below.

The degree of satisfaction has to be much higher than that of whether a prima facie case is made out or not, while invoking the powers under Section 319 Cr.PC. This judicial discretion has to be exercised by a Court while invoking the power under Section 319 Cr.PC on appreciation and after taking into account the facts and circumstances of a given case in

totality as the Court has to be very circumspect while exercising this extraordinary power. Hence, it goes without saying that the power under Section 319 Cr.PC should be used very sparingly and only if there exist some compelling reasons.

However, in the instant case, on a bare perusal of the allegations in the FIR in question, admittedly there are vague allegations against the respondent-accused inasmuch as there are no allegations qua any specific demand of dowry much less the date, time or place when the respondent-accused subjected the petitioner to physical and mental harassment qua the alleged dowry demand. Admittedly, all the respondent-accused are related to the accused, who already stand challaned. Testimony of the petitioner no doubt is on the same lines as the allegations levelled against the respondent-accused in the FIR in question but the allegations were thoroughly investigated and no new ground to satisfy the degree as set under Section 319 Cr.PC has been made out.

As a sequel to the above, I do not find any perversity or infirmity in the orders passed by the Courts below. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

27.01.2020
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No