

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Revision No.2821 of 2019 (O&M)

Date of Decision: 10.02.2020

Shalu

...Petitioner (s)

Versus

State of Haryana & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Amandeep, Advocate for
Mr. Lekh Raj Sharma, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

The petitioner – Shalu has filed the present revision petition impugning the order dated 05.09.2019 passed by Principal Magistrate, Juvenile Justice Board, Gurugram, whereby the application filed by the complainant through APP, so as to summon respondents no.2 to 9, as additional accused, was dismissed.

Learned counsel for the petitioner has argued that the trial Court has adopted a casual approach in dealing with the matter, as despite there being sufficient evidence on record with regard to involvement of the respondents no.2 to 9, they have not been summoned in the case. He has further submitted that merely because respondents no.2 to 9 were found innocent during investigation, is no reason for the trial Court not to

summon them as additional accused to face trial. There is sufficient material available on record, from where, it can be established that respondents no.2 to 9, sought to be summoned, have committed heinous crime along with other accused. In support of his case, he has relied upon a judgment of this Court in the case of **Bakhshish Singh Sarpanch Vs. State of Punjab & another 2018(4) RCR (Criminal) 164.**

I have heard learned counsel for the petitioner.

The FIR in the case was registered on the statement of the complainant for commission of the offence under Sections 380, 411, 120-B, 34, 328 IPC, Section 25 Arms Act, Section 66-D Information Technology Act and Section 3 SC/ST Act, the offence under Section 376 IPC being deleted during investigation. The police has conducted a detailed investigation and found respondents no.2 to 9 innocent. Though the allegation levelled against respondents no.2 – Nizam was for commission of the offence of rape, but when the police conducted investigation and has taken into consideration the electronic chat between the prosecutrix and the juvenile, he was found innocent.

The argument of counsel for the petitioner that the doctor while conducting medical examination of the victim has opined that possibility of sexual assault cannot be ruled out, is of no relevance, as regards summoning of respondent no.2 to 9, additional accused, is concerned. In her statement recorded under Section 164 CrPC, the prosecutrix has stated that she was subjected to rape by Khalid along with respondent no.2, who is elder brother of Khalid for about 10 times. However, she has never reported the matter to the police regarding the

offence of commission of rape. Once the very allegation of commission of rape has not been established and the prosecutrix has said nothing new in her examination-in-chief except reiterating her previous version, as stated in the FIR, this Court does not find any illegality in the impugned order dated 05.09.2019 passed by Principal Magistrate, Juvenile Justice Board, Gurugram, whereby the application filed by the complainant under Section 319 CrPC was dismissed. As far as the judgment relied upon by counsel for the petitioner in the case of **Bakhshish Singh Sarpanch** (*supra*) is concerned, the same has no relevance to the facts and circumstances of the present case.

Accordingly, the prevision revision petition is hereby dismissed.

February 10, 2020
AK

(**HARI PAL VERMA**)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No