

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

**CRM-M-47174-2019
Decided on : 07.02.2020**

Aarti Kapoor

. . . Petitioner(s)

Versus

State of Haryana and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Aditya Goyal, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Sections 482 Cr.P.C., for quashing of order dated 19.09.2019 (Annexure P-6), passed by learned Additional Sessions Judge, Yamuna Nagar and order dated 18.12.2017 (Annexure P-4), passed by the learned Judicial Magistrate 1st Class, Yamuna Nagar, whereby, the application of the petitioner filed under Section 319 Cr.P.C. has been dismissed.

It has been vehemently argued that the learned Courts below erred in dismissing the application under Section 319 Cr.P.C. for summoning the additional accused namely Mitin alias Sunty, Suman, Shalu and Raj Kumar, despite the fact that there existed sufficient material on record against them and the complainant had specifically spelt out the role played by the respondents not only in the FIR in question, but also during her deposition before the trial Court.

I have heard learned counsel for the petitioner and have gone through the impugned orders.

Power of summoning a person as an additional accused under Section 319 Cr.P.C. cannot be exercised in a routine and mechanical manner and this extraordinary power envisaged under Section 319 Cr.P.C. should be

exercised cautiously and sparingly. The respondent-Raj Kumar is the brother-in-law of the complainant. Allegations have been levelled by the petitioner-complainant that her brother-in-law tried to outrage her modesty and commit rape upon her. Not only this, it has been alleged that when she was pregnant, the accused including the respondent threw her out of the matrimonial home. Subsequent to the registration of the FIR in question, the matter was thoroughly investigated by the investigating agency and the allegations to attract the mischief of Sections 376, 511 IPC as well as Section 3(1) (X) SC/ST Act, 1989 were not made out. In fact, certain photographs which were placed on record and which were clicked after the birth of the child of the petitioner clearly reflects the presence of all the accused along with the petitioner. Thus, the allegations of the petitioner of being neglected and also being subjected to cruelty during her pregnancy and thereafter, runs contrary to the material on record. Moreover, had the respondent actually tried to outrage her modesty and commit rape upon her, the question of all of them being together in the photographs would not have arisen.

It is an admitted fact that Shalu and Raj Kumar are sister-in-law and brother-in-law of respondent No.2, who is the husband of the petitioner (complainant) and are not even residing with them. Accused Mitin @ Sunty is brother of respondent No.2, whereas, Suman is the mother-in-law. Only vague allegations have been levelled in the FIR in question against the aforementioned persons, which does not warrant the interference of this Court.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

February 07, 2020

J.Ram

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