

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

228

**CRR-108-2021(O&M)
Decided on : 19.07.2021**

NARENDER SINGH

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. V.P. Sangwan, Advocate
for the petitioner(s).

Ms. Gaganpreet Kaur, AAG Haryana.

MANJARI NEHRU KAUL, J. (Oral)

The petitioner by means of the instant revision has impugned the order dated 27.01.2021, passed by Additional Sessions Judge, Bhiwani, whereby the applications Annexures P-3 and P-5 for summoning witnesses in defence were dismissed.

Learned counsel would contend that the Court below failed to appreciate, that the evidence of the witnesses sought to be summoned by the defence was crucial for the just decision of the case. Learned counsel would further contend that the observations made by the Court below that it was merely a ploy to delay the trial was erroneous and as such the impugned order deserved to be set aside.

I have heard the learned counsel and gone through the material on record.

The applications Annexure P-3 and P-5 were moved by the petitioner before the trial Court seeking to summon the Nodal officer of

IDEA Company along with all the call record details between 01.10.2019 to 20.10.2020 of the phone belonging to the complainant i.e., mother of the victim. In addition to that, the defence counsel had also sought to summon the hand writing and finger print expert for comparison of the signatures of the complainant with Ex.D-1 and Ex.D-2 stated to be a compromise deed entered into between the complainant i.e., mother of the victim and the accused (copy of the same has been annexed with the petition as Annexure P-1 and P-2.)

It would be pertinent to give a brief background of the case as set up by the prosecution. Allegedly on 22.07.2019 a complaint was made by the mother(complainant) of the victim, aged 14 years, that the accused had sexually assaulted and raped her minor daughter when the latter had gone to buy a notebook. On a hue and cry raised by the victim, the sons of the complainant were attracted to the spot, who then rushed to the rescue of their sister i.e., the victim. However, the accused-petitioner on being caught red handed while committing the alleged crime, ran behind the two boys brandishing a knife with a threat to kill them. Soon thereafter FIR No.0236 dated 22.07.2019 under Sections 4 of the POCSO Act and Sections 376 and 506 IPC was registered against the petitioner-accused by the mother of the victim.

During trial, all the prosecution witnesses were examined including the victim and her two brothers, who supported the case of the prosecution in its entirety. The statement of the petitioner-accused was recorded under Section 313 CrPC and the case was then fixed for defence evidence. It is only thereafter, application (Annexure P-3) was moved on

03.03.2020.

Learned counsel has tried to project it to be a case of false implication on account of an alteration which took place between him and the uncle of the victim, when the latter fell into a muddy puddle.

I have gone through the impugned order and minutely perused the material on record. I do not find any illegality, much less, infirmity in the impugned order. Rather, the impugned order comes across as being a well reasoned one. It is evident that all the witnesses including the mother of the victim, who stepped into the witness-box as PW-9 were thoroughly examined and subjected to a searching cross-examination. A suggestion qua the execution of the affidavit (Annexure P-2), which the defence is now seeking to bring on record through their application dated 03.03.2020 was specifically put to the mother of the victim i.e., PW-9, who in unambiguous and categorical terms denied having executed. Still further, it is indeed very strange that the said affidavit has been attested by none other than the defence counsel, which on the face of it *prima facie* smacks of manipulations. This Court, thus, has no hesitation in observing that in the facts and circumstances as detailed hereinabove, it is a ploy on the part of the petitioner to prolong and delay the trial as has also rightly been observed by the trial Court. Otherwise, also the compromise is alleged to have been entered into between the complainant i.e., mother of the victim and the accused, which in the eyes of law has no value at all. The mother with whom the compromise is shown to have been entered into is neither the victim of sexual assault nor an eyewitness to the occurrence in question. The eyewitnesses in the case are real brothers of the victim and already

stand examined by the prosecution. Moreover, it is not even the case of the petitioner that the eyewitnesses have been withheld by the prosecution

In the circumstances, this Court would be most reluctant to invoke its revisional jurisdiction.

Petition stands Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 19, 2021

S.Sharma(syr)

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*