

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

CRR-179-2022

Date of Decision: 8.2.2022

Naresh

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Lalit K. Gupta, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The petitioner has approached this Court by way of filing this revision petition impugning the order dated 6.12.2021, whereby, the learned Additional Sessions Judge, Panipat has dismissed the application under Section 319 Cr.P.C. for summoning the proposed accused, namely, Ankush and Raju.

As per the facts of the case, the FIR was lodged by the complainant Naresh. It was alleged that he is working as Supervisor with the Floor and More, Shimla Maulana Road, Panipat and his wife is working as Nurse with Apex Hospital, Sanauli Road, Panipat. Both the husband and wife left for job ususally at 9:00 am and 10:00 am, respectively. His eldest daughter (name concealed), who is minor is studying in 12th class in Government School. On 18.6.2020, when they returend back to home in the evening, they found that their daughter was not at home. He enquired from surroundings, then Santosh wife of Ravinder told that she went to their

house at about 5 O'clock and there she saw that Sahil son of Iqbal was putting knife on the neck of his daughter and Ankush son of Charan Singh was holding her from behind and Raju son of Karambir was holding her hands. She tried to save her. They pushed her and took away his daughter. She became unconscious. By the time, she regained her consciousness, they had left. On checking their home, some jewellery worth Rs.2,50,000/- was found missing. Request was made to lodge the FIR and take legal action against the culprits. The investigation commenced and on conclusion of the same, the challan was presented against Sahil, whereas, both the proposed accused i.e. Ankush and Raju were kept in column No.2. During the course of the trial Santosh wife of Ravinder was examined as PW-1, where she reiterated about the allegations qua both the proposed accused and on the basis of the same, the complainant filed application under Section 319 Cr.P.C. for summoning both of them. After hearing the parties, the learned trial Court declined the same vide impugned order dated 6.12.2021. Aggrieved by the same, the complainant-petitioner has approached this Court by way of filing this present revision petition.

Learned counsel for the petitioner contends that the conclusion drawn by the learned trial Court is totally unsustainable in the eyes of law. He submits that both the proposed accused were named in the FIR and the eye witness Santosh had specifically named them, however, for the extraneous reasons the Police exonerated both these accused at the time of filing of challan. He has submitted that now this eye witness appeared before the trial Court as PW-1 and again reiterated her earlier version. As the complicity of both the proposed accused is evident, hence, both deserve

to be summoned under Section 319 Cr.P.C. to face trial alongwith the accused Sahil, who is already facing trial. He has relied upon the judgment of Hon'ble the Apex Court in the case of Hardeep Singh vs. State of Punjab and others, (2014) 3 SCC 92 and submitted that in view of the law settled, the conclusion arrived at by the trial Court is illegal and same deserves to be set aside by summoning both the proposed accused.

Heard.

As is evident from the facts of the case that in the initial version there were three accused named in the FIR, however, as the investigation commenced the allegations and counter allegations were investigated and on the conclusion of the same, no substantial material was found by the Investigating Agency against both the proposed accused. As a result, the challan was presented only against accused Sahil, who is facing trial. The learned trial Court has duly observed that during the investigation, the statement of the victim was recorded under Section 164 Cr.P.C. wherein the victim had submitted that she solemnized marriage with Sahil on 24.6.2020. They approached before this Court seeking protection as well. In the statement, which was recorded by the Judicial Magistrate, there was no whisper regarding the alleged role of kidnapping by both the proposed accused. Statement of PW-1, Santosh was recorded under Section 161 Cr.P.C. and a thorough investigation was carried out. However, both of them were exonerated for lack of any evidence against them during investigation. There is no dispute regarding the law laid down by the Hon'ble Supreme Court in Hardeep Singh's case (supra), however, in the facts and circumstances of the present case, the case of the petitioner is not

strengthened by the same. However, the ratio laid down by the same judgment fortified the case of both the proposed accused. Their Lordships had laid down that the satisfaction of the Court against the proposed accused for summoning him/her to face the trial should be more than the prima facie case, required at the time of framing of charge and the evidence produced, if go un-rebutted should lead to conviction. Applying the law settled to the facts and circumstances of the present case, this Court finds that the case of the petitioner fails to qualify the same. As a result, the petition being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

8.2.2022
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No