

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

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**CRM-M-7482-2022 (O&M)
Decided on : 22.02.2022**

Urmila Rani

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Mayur Karkra, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

The petitioner is impugning the order dated 17.08.2021, passed by the learned JMIC, Patiala and the order dated 25.11.2021, passed by the learned Additional Sessions Judge, Patiala (annexed as Annexures P-8 & P-9, respectively), affirming the order dated 25.11.2021, whereby, an application moved under Section 319 Cr.P.C. was allowed and the petitioner was summoned to face trial as an additional accused in case FIR No. 136, dated 12.12.2018, registered under Sections 406, 498-A of IPC, lodged at Police Station Women, District Patiala (annexed as Annexure P-1).

Learned counsel for the petitioner while inviting the attention of this Court to the allegations levelled in the FIR (Annexure P-1), submits that respondent No.2 i.e. the complainant, who is the daughter-in-law of the petitioner, had levelled false and fabricated allegations against the petitioner of subjecting her to physical and mental torture for not getting dowry as per her expectations. It has been submitted that subsequent to the registration of the FIR, the investigating agency had carried out a thorough investigation and had rightly not found any substance in the allegations levelled, as a result of which, the petitioner was placed in column No.2. Learned counsel further submits that it was also a matter of record that there had been a panchayati compromise on 06.06.2014 (annexed as Annexure P-4) between the parties and thereafter, respondent No.2 along with her husband i.e. the son of the petitioner had started residing separately at Derabassi. Learned counsel submits that there was also a statement made in the said regard by

none other than respondent No.2 as well as her father to the effect that all her *Istri-dhan* was in the possession of her husband i.e. son of the petitioner and all the above statements were part of the final report presented by the Investigating Agency under Section 173 Cr.P.C.

Learned counsel, thus, submits that in the aforementioned facts and circumstances, it was evident that pursuant to the panchayati compromise in the year 2014, the petitioner had no role to play in the life of respondent No.2 and her husband i.e. son of the petitioner, as they had started living in Derabassi.

Still further, learned counsel while drawing the attention of this Court to the deposition of the respondent No.2 as PW-1 (annexed as Annexure P-6), submits that a perusal of the same clearly revealed material improvements had been made by her over her original version given at the time of the registration of the FIR, inasmuch as, respondent No.2 deposed that she was being pressurized to get a motorcycle and her share from the property of her parents in addition to she being physically assaulted in front of her relatives. Learned counsel submits that both the Courts below failed to take note of these material improvements and contradictions while passing the impugned orders. It was submitted that the statements of the respondent No.2 as well as her father recorded under Section 161 Cr.P.C., which were part of the challan, were not even noticed by the Courts below and hence, the impugned orders, vide which the petitioner had been summoned to face trial as an additional accused u/s 319 Cr.P.C, deserved to be set aside.

In support of his submissions, learned counsel has placed reliance upon a catena of judgments of the Apex Court as well as of this Court rendered in cases **Brijendra Singh vs. State of Rajasthan (SC), 2017 (3) RCR (Criminal) 374**, **Labhuji Amratji Thakor vs. State of Gujarat (SC), 2019(1) RCR (Criminal) 1**, **Shiv Prakash Mishra vs. State of Uttar Pradesh (SC), 2019 AIR (SC) 3477**, **Ashwani Kumar vs. State of Punjab (P&H), 2020 CriLJ 4328** and **Lalita Dixit vs. State of Haryana (P&H), 2020(4) Law Herald 2833**.

I have heard learned counsel for the petitioner and perused the relevant material on record.

It is certainly not the case of the learned counsel for the

petitioner that she had not been named or attributed any role in the crime in question at the time of lodging of the FIR and subsequently while stepping into the witness-box, the complainant had introduced her as an accused and attributed some role in the crime in question. Rather, a perusal of the FIR clearly reveals that not only was the petitioner named in the FIR, but had been attributed specific role in the crime in question. Hence, I do not find any force in the submissions of the learned counsel *qua* some material improvements made by the complainant when she stepped into the witness-box as PW-1. A perusal of the deposition of the complainant (annexed as Annexure P-6) reveals that she had reiterated all her allegations against the petitioner on all material aspects of the case, in consonance with the contents of the FIR.

The submissions made by the learned counsel that after the year 2014, the complainant and the son of the petitioner had started residing separately at Derabassi and hence, the petitioner had no occasion to interfere, much less, harass the complainant is contrary to the allegations levelled in the FIR, as it stands reflected therein that just after a few months, the son of the petitioner along with the complainant had moved back and had started living with the petitioner again.

Be that as it may, the truthfulness or otherwise of the allegations levelled and also the so-called improvements *qua* specific demands of motorcycle etc. made by the complainant (respondent No.2) during her deposition before the Court below, would be a matter of appreciation during trial when the petitioner shall get ample opportunity to test the veracity of the allegations levelled on the touchstone of cross-examination. It may also be reiterated that the contention of the learned counsel that the investigating agency had after a thorough investigation found the petitioner innocent and thus rightly placed her in column No.2, cannot by itself be a sufficient enough ground to set-aside the impugned order vide which the petitioner has been summoned to face trial as an additional accused, u/s 319 Cr.P.C., as it would then defeat the very purpose for which Section 319 Cr.P.C., was enacted. A Court cannot remain a mute spectator, if during evidence the *prima facie* complicity of an accused in the crime in question comes to the fore. It may yet again be reiterated that the term “evidence” appearing in Section 319 Cr.P.C. would include only such

evidence which is adduced during trial and certainly not any material, which may have been collected during investigation.

The reliance placed by learned counsel for the petitioner on various case laws, would not come to his rescue, as the facts of the present case are totally distinguishable from those.

In the facts and circumstances, as enumerated hereinabove, this Court does not find any ground to invoke its inherent jurisdiction under Section 482 Cr.P.C. and set-aside the impugned orders.

Petition stands dismissed accordingly. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

February 22, 2022

J.Ram

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