

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

136

CRM-M-29615-2022

Date of decision :26.07.2022

Ridhima Rani

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Gagandeep Rana, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana for respondent No.1.

Mr. S.S. Dinarpur, Advocate for respondents No.2 to 4.

SUVIR SEHGAL, J.

By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Code”), the petitioner seeks quashing of order dated 17.03.2022, Annexure P-5, passed by learned JMIC, Ambala, by which application dated 03.03.2022, Annexure P-4, filed by the petitioner/complainant under Section 311 of the Code, has been dismissed.

Counsel for the petitioner submits that the petitioner was married to Sandeep Singh-respondent No.2 on 24.03.2010 and despite the fact that ample dowry was given at the time of marriage, neither her husband nor his family members-respondents No.2 to 4 were satisfied. He submits that she was constantly harassed and tormented and eventually turned out of

her matrimonial home. On a complaint given by the petitioner, counsel submits that FIR No.175 dated 03.12.2017 for offences under Sections 312, 323, 406, 498-A, 506 of IPC, 1860, has been registered at Women Police Station, Ambala, Annexure P-1, against the private respondents. It is his case that mother-in-law - Paramjeet Kaur had submitted a complaint, Annexure P-2, against the petitioner and her relations and upon enquiry, the allegations levelled therein were not proved. The petitioner filed an application under Section 311 of the Code, Annexure P-4, for bringing on record the complaint No.1424-PW dated 27.06.2016, as well as the enquiry report, Annexure P-3, by way of additional evidence, which has been declined by the trial court vide order impugned herein.

Counsel urges that the complaint as well as the enquiry report are necessary for the proper decision of the case. Reliance has been placed upon a judgment of a Co-ordinate Bench of this Court in CRM-M-44082-2016 titled as Sonia versus State of Haryana and others decided on 09.01.2017.

Petition has been resisted by counsel representing the accused-respondents No.2 to 4, who has submitted that the application has been filed at the near end of the trial and the attempt is not only to delay the trial but also to rely upon material, which has no relevance.

I have heard counsel for the parties and considered their respective submissions.

There is no doubt that power under Section 311 of the Code is very wide and the Court can recall a witness or permit leading of additional evidence, in any form, at any time before the delivery of the final judgment.

However, the cardinal rule or the touchstone is that it should be essential for

the just decision of the case. Relying upon the judgments of the Supreme Court in **Raja Ram Parsad Yadav Versus State of Bihar and another (2013) 14 SCC 461**, as well as **State of Haryana Versus Ram Mehar and others** decided on 24.08.2016, this Court in **Sonia's case (supra)** has followed the principles laid down in both the Supreme Court judgments.

The facts of the present case have to be examined in the light of the above settled position of law. Petitioner has not placed on record the testimony of the complainant. On a specific query addressed to the counsel, he has candidly admitted that no evidence has been led by the complainant regarding the complaint allegedly given by her mother-in-law - Paramjeet Kaur.

A perusal of the allegations levelled in the FIR, also do not refer to any complaint having been submitted by Paramjeet Kaur in June, 2016. It is, therefore, apparent that the petitioner is trying to set up an entirely new case by invoking Section 311 of the Code, which cannot be permitted. Moreover, considering the allegations levelled in the FIR, this Court is of the view that the material being sought to be brought on the record has no relevance with the allegations in the FIR and it is not necessary for the just and fair decision of the matter.

Conduct of the petitioner deserves to be noticed. Her testimony was recorded before the trial court on 03.06.2019, 02.12.2019 and was concluded on 10.02.2020 and the instant application has been filed by her in March, 2022, when the trial is at an advanced stage and is fixed for the recording of the statement of the accused under Section 313 of the Code.

From the above, it is clear that the intention of the complainant-petitioner is to delay the trial and power under Section 311 of the Code cannot be exercised for this oblique motive.

Finding no merit in the revision petition, it is hereby dismissed with no order as to cost.

26.07.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No