

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

(109)

CRR-2230-2022

Date of decision :-21.10.2022

Sujata Rani

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Ishita Jain, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

...

SUVIR SEHGAL, J (ORAL)

Vide the instant petition filed under Section 401 of the Code of Criminal Procedure, 1973 (for short "the Code"), the petitioner has assailed order dated 29.08.2022 passed by the learned Additional Sessions Judge (Exclusive Court for Heinous Crime against Women), Yamuna Nagar at Jagadhri, whereby, application filed by the prosecution under Section 319 of the Code for summoning respondents No.2 to 5 as additional accused, has been declined.

In brief, facts of the case are that FIR, Annexure P-1, has been lodged by the complainant-petitioner on the allegation that her marriage was solemnized with Chottu Ram on 14.11.2019 at Yamuna

Nagar and her parents gave huge dowry and spent about Rs.12,00,000/-. Within a few days of marriage, the accused started making demands. She also discovered that her husband was unemployed and not working in Indian Bank. Her husband used to come home late at night and forcibly had unnatural sex with her. When she confided in co-accused, she received no support. Allegations have been leveled that her husband has illicit relation with his brother's wife-respondent No.5 and petitioner's brother-respondent No.4 keeps an evil eye on her. On 21.05.2020, her husband along with respondents No.2 to 5 and accused No.6 brutally attacked her and she was shunted out of the matrimonial home. She, somehow, managed to inform her brother, who took her to hospital, where, she was medically examined. Complaint has been lodged requesting action be taken against all the six accused.

The matter was investigated and on conclusion thereof, final report under Section 173 of the Code, Annexure P-2, was submitted, wherein, it was found that allegations levelled by the complainant-petitioner against respondents No.2 to 5, were false and they were found to be innocent. However, challan was presented against her husband, Chhotu Ram. On the basis of the final report, Chhotu Ram was charge-sheeted for offences under Sections 498-A, 406, 313, 323, 324, 506, IPC, vide order dated 03.03.2021 to which he pleaded innocence and claimed trial. After the examination-in-chief of the complainant, Annexure P-4, was recorded, an application was moved under Section 319 of the Code seeking summoning of accused-respondents No.2 to 5, which has been rejected by the Trial Court vide order impugned herein.

Counsel for the petitioner has argued that the complainant-petitioner has levelled allegations against the private respondents in FIR, Annexure P-1, as well as in her examination-in-chief, but the Trial Court has not appreciated the gamut of accusations and has erred in refusing to summon them as additional accused.

Advance copy of the petition has been served upon the State counsel, who upon instructions from SI, Satish, has resisted the petition. She has argued that the impugned order does not suffer from any illegality or perversity.

I have considered the rival submissions addressed before this Court.

There is no dispute about the settled proposition of law. Section 319 of the Code confers discretionary and extra-ordinary power on the Court, which is to be utilized sparingly and only where the circumstances of the case so warrant. The power is not to be exercised in a casual and cavalier manner, but when strong and cogent evidence comes forth against a person sought to be summoned. It has been held by the Hon'ble Supreme Court in ***Labhuji Amratji Thakor and others Versus State of Gujarat and another, 2019 (1) RCR (Criminal) 1***, that mere fact that Court has power under Section 319 of the Code to proceed against any person at any stage, does not mean that the Court can mechanically issue the process. The Court has to consider the substance of evidence, which has been lead.

Matter has to be examined in the backdrop of the settled position. Perusal of the paper book shows that the testimony of the complainant-petitioner is a mere repetition of allegations levelled by her in the FIR, Annexure P-1. General and vague allegations have

been levelled by her against the relatives of her husband, who were staying in a joint family. She has not even spared the minor daughter of her brother-in-law. Even though, she has claimed that she was physically assaulted by the accused on 21.05.2020, but her medical examination, does not depict any injury suffered by her and her fetus was found to be normal.

Follow up examination of the complainant was conducted on 18.06.2020, when her husband had accompanied her. In her examination-in-chief, she has not been able to substantiate the allegations nor as she produced any material in support thereof. This Court can safely assume that the sole objective of implicating respondents No.2 to 5 is to harass and humiliate them as they are the relatives of her estranged husband. This Court, therefore, does not find any reason to differ with the findings recorded by the Trial Court. There is no illegality or infirmity with the impugned order and it does not call for any interference in the exercise of limited revisional jurisdiction.

Petition is sans merits and is hereby dismissed.

It is clarified that any of the observation made hereinabove shall not influence the Court below and the Trial Court shall proceed with the matter without being prejudiced therewith.

(SUVIR SEHGAL)
JUDGE

21.10.2022
Pardeep

Whether speaking/reasoned	Yes
Whether reportable	Yes