

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
119 **CRM-M-14163-2023(O&M)**
Date of decision: 16.08.2023

Paramjit Kaur

...Petitioner(s)

Vs.

State of Punjab & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Janak Singh Bhinder, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present petition under Section 482 Cr.P.C. is filed for quashing of impugned order dated 27.10.2022 passed by learned Sessions Judge, Sangrur in FIR No.88 dated 30.09.2018 (Annexure P1) under Section 498-A IPC Police Station Sandaur, District Sangrur now District Malerkotla. Further prayer is made to modify order dated 13.01.2020 passed by Judicial Magistrate, 1st Class, Malerkotla to the extent that to summon Shanti Devi as additional accused in above said FIR.

2. Learned counsel for the petitioner submits that the petitioner was married to accused Balwinder Singh (who is not a party respondent herein) on 30.05.1993. Private respondents No.2 and respondent No.3 herein are the sisters-in-law of the petitioner, respondent No.4 is father-in-law and respondent No.5 is mother-in-law of the petitioner. It is submitted that as the private respondents along with the accused husband used to torture and beat the petitioner and taunt her as she bore no child, the petitioner filed FIR No.88 dated

30.09.2018 against Balwinder Singh s/o Inderjit Singh; Inderjit Singh s/o Bachan Singh; Jasmail Kaur w/o Inderjit Singh; Swarnjit Kaur w/o Kuldeep Singh; Kuldeep Singh s/o Inderjit Singh; Kuldeep Kaur @ Darshana w/o Jagsir Singh; Sukhwindre Kaur w/o Manjit Singh; Shanti Kaur w/o Hakam Singh; Inderpal Singh s/o Manjit Singh; Sandeep Kaur @ Vicky d/o Surjit Singh @ Jeet Singh and Ishro w/o Bagga Singh. However, the police filed charge sheet (Annexure P2) only against Balwinder Singh. Vide order dated 15.07.2019 (Annexure P3) the learned trial Court framed charge under Section 498-A, 494, 323 and 506 IPC against Balwinder Singh. It is submitted that though even in her statement dated 10.10.2019 (Annexure P4) recorded before the learned Judicial Magistrate, 1st Class, Malerkotla, the petitioner had specifically named the accused Balwinder Singh as also the private respondents herein, however, they were still not summoned by the learned trial Court. Accordingly, the petitioner moved an application under Section 319 Cr.P.C. (Annexure P5) for summoning the present private respondents. Vide order dated 13.01.2020 (Annexure P6), the learned Judicial Magistrate, 1st Class, Malerkotla partly allowed the petitioner's application under Section 319 Cr.P.C. to summon private respondents No.2 to 5 herein. However, co-accused Shanti Kaur w/o Hakam Singh was not summoned. Against the order dated 13.01.2020, the private respondents herein moved a revision petition dated 10.02.2020 (Annexure P7) before the learned Sessions Judge, Sangrur. Vide impugned order dated 27.10.2022 (Annexure P8) learned Sessions Judge, Sangrur has allowed the revision

petition filed by the private respondents herein; and has also simultaneously dismissed the revision petition filed by the petitioner titled as “Paramjit Kaur Vs. Balwinder Singh”, seeking summoning of Shanti Devi w/o Hakam Singh and Inderpal Singh s/o Manjit Singh and Sandeep Kaur @ Vicky as additional accused. However, as originally the petitioner had not filed an application under Section 319 Cr.P.C. against Inderpal Singh and Sandeep Kaur, therefore, the learned Sessions Judge held that the revision petition was not maintainable against Inderpal Singh and Sandeep Kaur.

3. Learned counsel for the petitioner submits that the learned Sessions Judge has wrongly and illegally allowed the revision petition filed by the private respondents herein. It is submitted that the findings of the learned Sessions Judge are contrary to the record. It is stated that there is nothing on record to show that the sisters-in-law of the petitioner namely Surinder Kaur @ Sukhwinder Kaur and Kuldeep Kaur @ Darshana respondents No.2 and 3 herein are married and residing in their own matrimonial homes. It is stated that the learned Sessions Judge was also in error in not allowing the summoning of Shanti Devi as additional accused because the petitioner had clearly stated in the FIRs as well as in her examination-in-chief that said Shanti Devi is the real paternal aunt (bua) of the accused Balwinder Singh and she is the mediator of the second marriage of Balwinder Singh.

4. No other argument is raised on behalf of the petitioner.

5. I have heard learned counsel for the petitioner.

6. Perusal of record of the case shows that insofar as Smt. Shanti Devi is concerned, there are concurrent findings of both the Courts below that there is nothing on record to show that she, being the Bua of accused Balwinder Singh, had committed any cruelty against the petitioner, or had hurt or threatened her in any manner. Even now, counsel for the petitioner is unable to show anything to this effect. As regards the allegation against her that she was the mediator in facilitating the second marriage of the accused Balwinder Singh, no proof has been placed on file either before the learned Courts below or before this Court in support of the said allegation of second marriage of the accused.

7. As regards the summoning of the private respondents No.2 to 5 herein, it has come on record that the petitioner in her complaint application Exhibit PW1/A levelled allegations of cruelty only “against Balwinder Singh and his family”, but names of the said family members including the private respondents herein, were not mentioned in the complaint.

Thereafter, learned Sessions Judge has also found that in her application Exhibit PW1/A and while appearing as PW1, the petitioner *“did not level any specific allegations against the additional accused, nor attributed any specific role in the commission of crime to them. No date, time and manner of cruelty have also been mentioned by her. No specific grave instance of cruelty has come on surface from the evidence available on record. Complainant has failed to disclose as to*

which accused had done which particular act. Thus, allegations of complainant are mainly against her husband Balwinder Singh, who is already facing trial and her allegations qua the additional accused are general and vague in nature...".

8. Learned Sessions Judge also found that respondents No.2 and 3 herein namely Surinder Kaur and Kuldeep Kaur are the married sisters-in-law of the petitioner who are residing in their own matrimonial homes. Respondent No.5/mother-in-law of the petitioner is an aged woman who is suffering from health problems. Even now, learned counsel for the petitioner is unable to disprove the above said findings of the learned Sessions Judge and is unable to show anything to controvert the same.

9. It has to be borne in mind that the Hon'ble Supreme Court in Constitution Bench judgment rendered in **Hardeep Singh Vs. State of Punjab & Others (2014) 3 SCC 92**, has held that power under Section 319 CRPC is a discretionary and extraordinary power, which has to be exercised sparingly and cautiously only in those cases where the circumstances so warrant.

10. In the present case, I find no grounds are made out that warrant the exercise of such power.

11. Accordingly, present revision petition stands **dismissed**.

12. Pending application(s) if any also stand(s) disposed of.

16.08.2023

Sunena

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(Nidhi Gupta)

Judge