

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 109

Criminal Revision No.1247 of 2023

Date of Decision: May 12, 2023

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..... PETITIONER(S)

VERSUS

State of Haryana & another

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

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PRESENT: - Mr. Vikram Rana, Advocate, for the petitioner.

Ms. Mahima Yashpal, Deputy Advocate General,
Haryana.

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Tribhuvan Dahiya, J (Oral)

This petition has been filed for setting aside order dated 17.04.2023 passed by the Additional Sessions Judge, Karnal, dismissing the application filed by the petitioner/complainant to summon respondent No.2 as additional accused in case FIR No.158 dated 15.09.2021 under Sections 328, 376(2)(n), 384, 506 IPC, registered at Police Station, Women, Karnal.

2. As per allegations in the FIR, complainant got married to Bablu on 19.02.2007 and has a son out of the wedlock. On 11.11.2015, her son met with an accident and slipped into coma. He was admitted in hospital. Accused No.2 (respondent No.2 herein) contacted her and said that accused Rajesh is a good *tantrik* and her problem needs *tantrik* worship along with doctor's treatment. He has cured thousands of cases like this. She told all this to her husband, who said Rajesh is not a good man, nor does he

know any *tantrik* worship. Accused No.2 came to her house time and again. On her instigation, she accompanied her to meet Rajesh at a *dargah* where he used to perform *tantric* activities every Thursday, and was made to perform Namaz. Rajesh asked her to give bali/sacrifice of some child. In the month of February 2017, when she visited the *dargah*, she was offered *halwa* laced with some sedative. After having the same, she became unconscious and Rajesh raped her against her wishes, and prepared a video of hers. He threatened to make the video viral on social media and established physical relationship with her a number of times by blackmailing. On 03.10.2017, accused Rajesh raised a demand of ₹ 2 lac, whereupon, an amount of ₹ 80,000 was transferred by the prosecutrix in his account. On 14.09.2021, Rajesh visited her house and showed her a nude photograph which had been culled out from the obscene video. He threatened to make these viral on social media and also to kill her family members. She narrated the entire matter to her mother and wanted to commit suicide. On asking of her mother, she reported the matter to the police and sought legal action against the culprits.

3. Learned counsel for the petitioner contends that respondent No.2/sister-in-law of the main accused was specifically named in the FIR by the petitioner/complainant as well as in her testimony before the trial Court. There is sufficient evidence on record in the form of statements of the complainant to establish commission of the alleged offences by her. Therefore, she has to be summoned as additional accused, and the application under Section 319 Cr.P.C. has been wrongly dismissed vide the impugned order.

4. Learned State counsel, appearing on advance notice, submits that after due investigation, respondent No.2 was placed in column No.2 in the final report under Section 173(2) Cr.PC, as no substance was found in the allegations levelled against her. The statements of villagers and *Panchayat* members under Section 161 Cr.PC were recorded, which clearly established that respondent No.2, *bhabhi*/brother's wife of the main accused was not even on talking terms with him. They have been staying separately in the village. It was also found during investigation that there was financial dispute between the parties as the complainant's husband had advanced a loan to both, the main accused and respondent No.2, and only on that account she was named as accused in the FIR which was lodged after a long delay of four years.

5. The arguments advanced by the parties have been considered.

6. After due investigation, it was found that respondent No.2 had no concern with the allegations levelled. Besides, perusal of the impugned order passed by the trial Court also establishes that there are material contradictions in the statements of the complainant herself so far as involvement of respondent No.2 in the case is concerned. In her statement before the Magistrate under Section 164 (Ex.P2), the complainant submitted that both, the accused and respondent No.2 had called her for performing *hawan* on a Sunday. She was offered some *parsad*, and after having the same she became unconscious. Whereas, in her complaint, Ex.P1, she submitted that the accused called her and offered *parsad* on the second thursday of February 2017. The alleged incidents occurred more than four

years prior to lodging of the FIR. She remained quiet for a long period of four years and had also been meeting the main accused, even after having been stopped from doing so by her husband. Even in the medical report, it has been mentioned that the last sexual assault on the complainant was in 2017, and she was about twenty eight years of age at that time. It has also been recorded in the order that the main accused himself, in the disclosure statement dated 15.09.2021, did had not mention involvement of respondent No.2. He only stated that complainant herself approached him for treatment of her son.

7. In view thereof, it is apparent that even *prima facie* case is not established on record against respondent No.2 so far as commission of the alleged offences are concerned. Therefore, the application under Section 319 Cr.PC has been rightly dismissed by the trial Court on sound reasoning and correct appreciation of law.

8. Dismissed.

(Tribhuvan Dahiya)
Judge

May 12, 2023
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No