

In the High Court of Punjab and Haryana at Chandigarh

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CRR-2079 of 2022(O&M)

Date of Decision: 9.2.2023

Smt. Savitri

---Petitioner

versus

The State of Haryana and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner

Ms. Dimple Jain, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

CRM-37599 of 2022

Allowed as prayed for.

CRR-2079 of 2022

The petitioner, through the instant petition is seeking setting aside of order dated 18.8.2022 whereby Sessions Judge, Nuh has dismissed application of the petitioner under Section 319 Cr.P.C. seeking summoning of private respondents herein.

The brief facts of the case are that complainant Savitri Devi wife of Dinesh was admitted in hospital on 25.11.2019 with alleged history of taking of unknown substance. The police recorded her statement wherein she disclosed that her marriage was solemnized with Dinesh about 10 years back and two children were born out of

this wedlock. On 26.11.2019 at about 1.30/2.00 p.m. she was lying in the room of her house. At that point of time her husband Dinesh alongwith his elder brother's wife-Rani (Bhabhi), father-in-law and mother-in-law came there and remarked that she would be done to death. They poured liquid in her mouth and on her raising alarm, they fled away from the spot.

On the complaint of Savitri Devi, FIR came to be registered against her husband and other family members. The challan came to be presented against husband. The police during investigation collected FSL report and came to a conclusion that “no common poison or drug was detected in the gastric lavage”. Father-in-law of the complainant is about 70 years old and other members of the family are admittedly residing separately. The allegations are general and vague.

The petitioner during the course of trial appeared before the trial court and tendered her statement. On the basis of her statement, an application under Section 319 Cr.P.C. came to be filed. Learned trial court after noticing all the facts dismissed application of the petitioner.

Learned counsel for the petitioner inter alia contends that statement of the complainant remained same before police authorities as well trial court. She made categoric allegations against the respondents, thus, trial court has miserably failed to summon the respondents.

I have heard learned counsel for the petitioner and perused the records.

The relevant extracts of the impugned judgment read as:-

“9. In the instant case, after investigation only accused Dinesh was challaned and remaining three persons, now sought, to be summoned, were found innocent. The complainant has reiterated the version as given by her in complaint. After investigation same was found to be insufficient against other persons named in the FIR, now sought to be summoned. She (PW1) has admitted that they were residing separately from other family members. It would be highly unnatural that elder brother's wife Rani was harassing complainant. The allegations of administration of poison or any unknown intoxicating substance are not prime facie supported with medical evidence. There is only self serving statement of complainant PW1 Savitri, which has been found false partly during investigation. At this stage, there is no prime facie case more than of framing of charge to summon these persons namely Rani wife of Naresh, Zile Singh son of Budhi and Stan wife of Zile Singh, all residents of village Dubalu, Tehsil and District Nuh. Accordingly, present application under Section 319 of Cr.P.C. is dismissed. Nothing observed herein shall be effected on the merit of the case against accused Dinesh facing trial. Papers be tagged with the main case file.”

From the perusal of findings recorded by the trial court and arguments of learned counsel for the petitioner, this court does not find any illegality or infirmity in the impugned order warranting interference. The criminal law cannot be put to motion merely on the basis of oral statement of complainant. Criminal trial always causes mental and physical agony. The petitioner is attempting to implicate her father-in-law who is 70 years old and other relatives who are not even residing with her. The intention of the petitioner seems to implicate as much as possible members of the husband family.

In view of the above, no ground is made out to interfere in the impugned order. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

9.2.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No