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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-61975-2023

Date of decision: 20th December, 2023

Gurjit Kaur

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ruhani Chadha, Advocate for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed by the petitioner under Section 482 of Cr.P.C. for setting aside of the order dated 25.07.2023 (Annexure P-3) passed in criminal case bearing CIS No. CHI-337/2018 titled as 'State of Punjab Vs. Tejinder Singh and others' arising out of FIR No. 59, dated 05.10.2017, registered under Sections 406, 498-A, 420, 34 of Indian Penal Code, 1860 (for short 'the Act') at Police Station Women Cell, District Jalandhar, by the Court of learned Judicial magistrate Ist class, Jalandhar whereby an application filed by her under section 311 of Cr.P.C. had been dismissed.

2. The brief facts relevant for the purpose of disposal of this case are that the aforementioned FIR has been registered against private respondents No. 2 to 4 on the basis of written complaint filed by the present

petitioner. The private respondents are facing trial for commission offences punishable under Sections 406 and 498-A of the Act as charge under section 420 of IPC had not been framed.

3. It is submitted by the petitioner that she was working prior to her marriage and was having an account in the State Bank of India, Mohali branch. Prior to her marriage an amount of about ₹ 4,00,000/- was lying deposited in the same. It is alleged that after her marriage, the private respondents in connivance with each other made her transfer her bank account to SBI Branch, Khurla Kingra. Thereafter, they got opened a joint account in the name of respondent No.2 and herself at Punjab National Bank, Gole Market, Branch Jalandhar. She was pressurized to transfer the account of money lying deposited in her bank account to the joint account and on her resistance, she had been extended beatings and after getting blank cheques signed, the said amount was transferred in the joint account operated by her husband. It is alleged that a detailed inquiry had also been conducted on this point by the investigating officer but the record pertaining to her bank account had not been collected during investigation and bank officials were not cited as a witness. In order to prove that pressure was exerted upon her and she was cheated by the respondents, she wants to summon record pertaining to her bank account. It is submitted that the aforementioned record was necessary for just decision of the case arising out of the FIR lodged by her but the learned trial Magistrate declined to do so thereby, causing her grave prejudice. It is, therefore, submitted that the impugned order be set aside, the application filed by the petitioner be allowed and she may be permitted to summon aforementioned record.

4. I have heard learned counsel for the petitioner at considerable length and have perused the record.

5. It has been revealed from the record that the case pending before the trial Magistrate is at the fag end of the trial. It is fixed for producing defence evidence. Obviously, sufficient opportunity would have been provided to the prosecution to conclude its evidence. The petitioner could very well file the application for summoning some witness/documents during the time, when opportunity was granted to her/ prosecution to produce evidence but that does not seem to have been done. Neither any explanation has been rendered for the same. Moreso, it is also revealed from a perusal of the impugned order that at no stage of the trial, the petitioner had made prayer for framing of additional charge under Section 420 of the Act. The document which she seeks to summon by way of additional evidence cannot be stated to be evidence of such nature which can be stated to be necessary for the purpose of fair and just decision of this case.

6. It is well settled proposition of law that an application under section 311 Cr.P.C must not be allowed only to fill up a lacuna in the case of the prosecution, or of the defence or to give an unfair advantage to the opposite party.

7. In *Swapan Kumar Chatterjee vs. Central Bureau of Investigation, 2019 (2) Scale 654*, Hon'ble Supreme Court has held that the power conferred under Section 311 Cr.P.C. should be invoked by the court only to meet the ends of justice and for strong and valid reasons and it should be exercised with great caution and circumspection.

8. The arguments raised by learned counsel for the petitioner have

already been dealt with by the trial Court, while dismissing his application filed under Section 311 Cr.P.C. by passing a detailed order. He has advanced the same arguments as advanced before the trial Court. Keeping in view the aforesaid facts and circumstances, I find no merit in the present revision. Hence, the same is dismissed.

20th December, 2023

Parveen Sharma

1. Whether speaking/ reasoned

2. Whether reportable

[MANISHA BATRA]

JUDGE

:

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Yes / No

Yes / No