

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-16389-2024 (O&M)
Date of decision: 05.04.2024

Baljinder Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rahul Arora, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. CRM-14542-2024

Allowed as prayed for, subject to all just exceptions.

Documents are taken on record as Annexure P-3.

2. CRM-M-16389-2024 (O&M)

This petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of order dated 04.03.2024 (Annexure P-4), passed by the Judicial Magistrate First Class, Ferozepur in case bearing No. CHI-162/2020, titled as *State vs. Satinderpal Singh and others*, arising out of FIR No. 8 dated 27.09.2018, registered under Sections 498-A and 406 of IPC (Section 420 IPC added later on) at Women Police Station, District Ferozepur, whereby an application as filed by the petitioner for summoning Inspector Bhupinder Kaur had been dismissed.

3. Brief facts of the case relevant for the purpose of disposal of this petition are that the private respondents had been booked in the abovementioned FIR, registered on the basis of a written complaint filed by

Neutral Citation No. 2024:PHHC:010957

the present petitioner, alleging therein that she was earlier married to one Pritpal Singh, who had died on 09.11.2014. After the death of her husband, her father-in-law had got her married with respondent No. 2-Satinderpal Singh on 11.12.2016. However, she was subjected to harassment and cruelty by her husband and his family members on account of demand of dowry. Her stridhan was also criminally misappropriated by them. Initially, a case under Sections 498-A and 406 of IPC was registered and subsequently, a rapat No. 14 dated 20.03.2019 was registered and offence under Section 420 of IPC was also added in the FIR. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the trial is going on. During the course of trial, the petitioner/complainant had moved an application under Section 311 Cr.P.C. for summoning Inspector Bhupinder Kaur as witness as her name was not mentioned in the list of witnesses. The said application had been dismissed by the trial Court by passing the impugned order. Hence, the present petition.

4. It is argued by learned counsel for the petitioner that the impugned order, whereby the trial Court had refused to allow the application filed by the petitioner for summoning the Inspector Bhupinder Kaur as witness, is not sustainable in the eyes of law and is liable to be set aside. It is argued that Inspector Bhupinder Kaur is a material witness as she was the author of aforesaid rapat No. 14, in pursuance of which, offence Section 420 IPC was added. It is further argued that no prejudice is being caused to the accused persons, if the application filed by the petitioner under Section 311 Cr.P.C. is allowed and the concerned police official is summoned as witness. Hence, it is urged that the present petition deserves to be allowed.

5. I have heard learned counsel for the petitioner at considerable length and have also gone through the record and on a perusal of the same, I am of the considered opinion that the present petition is liable to be dismissed.

6. The only plea taken by the petitioner for summoning the aforesaid police official is that she had lodged the aforesaid rapat, by way of which, offence Section 420 of IPC was added on 20.03.2019. A perusal of the record reveals that charges have been framed under Section 406, 498-A as well as Section 420 of IPC. The petitioner, neither in her application filed under Section 311 Cr.P.C. nor in the present petition, has stated that as to for what purpose she wants to summon the aforesaid police official as apart from lodging the aforesaid rapat, no role of said police official has been brought to the notice of the Court. The petitioner has nowhere stated as to how her summoning is essential for the proper and just decision of the 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 lacunas in the case of the prosecution, or of the defence or to give an unfair advantage to the opposite party. *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. Though, Section 311 Cr.P.C. confers vast discretion upon the Court and is expressed in the widest possible terms, the discretionary power under the said section can be invoked only for the ends of justice. The provisions of this section should be exercised consistently with the provisions of the Code and the principles of criminal

law. The discretionary power conferred under Section 311 Cr.P.C. has to be exercised judicially for reasons stated by the Court and not arbitrarily or capriciously. Reference in this context can be made to *Vijay Kumar vs. State of U. P. : (2011) 8 SCC 136* as well as to the judgments rendered by this Court in *Bhag Singh vs. Madan Lal Walia : 1998 (3) Civil Court Cases 597(1)(P&H)* and *Joginder Singh vs. Devinder Kumar : 1999(1) Civil Court Cases 202(P&H)*.

7. The arguments raised by learned counsel for the petitioner before this Court have already been dealt with by the trial Court, while dismissing her application filed under Section 311 Cr.P.C. by passing the impugned order. Keeping in view the aforesaid facts and circumstances, I do not find any ground to interfere with the impugned order, passed by the trial Court. Hence, the present petition is dismissed.

05.04.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes