



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-30472-2017

Date of Decision:-17.05.2024

Mandeep Kaur Khagura.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sunil Chadha, Senior Advocate assisted by
Ms. Sonia, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

Mr. Bhupinder Pal Singh Khagura, respondent no.3 in person.

JASJIT SINGH BEDI, J.

The prayer in the petition under Section 482 Cr.PC is for quashing of the order dated 18.04.2017 (Annexure P-4) passed by Judicial Magistrate, Ist Class, Faridkot, to the extent of refusing to summon the concerned officials of the Railways Department and the Civil Surgeon Office, Faridkot in the proceedings arising out of FIR No.277 dated 20.09.2011 registered under Section 506 IPC and Sections 27, 54, 59 of Arms Act at Police Station Kotwali, Faridkot, District Faridkot (Annexure P-1) vide which the application bearing no.CNR No.PBFD03-001887-2014 (Annexure P-3) under Section 311 Cr.PC has been partly allowed.

2. The brief facts of the case are that the petitioner got registered

FIR No. 277 dated 20.09.2011 under Section 506 IPC and Sections 27, 54,



59 of Arms Act at Police Station Kotwali, District Faridkot with the allegations that she was married to the respondent no.3. She had gone for RNTCP Training to Delhi from 05.09.2011 to 17.09.2011 which had been arranged by the government. After finishing her training she was returning back to Faridkot from Delhi on a train on 18.09.2011. She was accompanied by her son Sehraj Singh. When they reached Faridkot at about 5.00 am on the Punjab Mail Train and came out from the platform towards the rickshaw stand then her husband Bhupinder Pal Singh-respondent no.3 came there with a friend and threatened her with his licenced revolver to withdraw her cases and to leave district Faridkot or he (husband) would kill her (complainant).

On conclusion of the investigation the report under Section 173(2) Cr.PC was submitted against the respondent no.3.

3. During the course of the Trial an application under Section 311 Cr.PC was moved for *(i) summon railway officials to prove the railway ticket and railway record; (ii) records of the Civil Surgeon for RNTCP Training at NRL Institute, New Delhi and (iii) to produce the minor witness Shehbaz Singh @ Sehraj Singh*. The copy of the application is attached as Annexure P-2 to the petition. The said application was partly allowed in as much as Shehbaz Singh was ordered to be summoned as a witness. However, the other two prayers regarding summoning of railway officials to prove the railway ticket and railway record and summoning of the record of civil surgeon were declined. Copy of the impugned order dated 18.04.2017 is attached as Annexure P-4 to the present petition.

4. It is the aforementioned order which is under challenge in the present petition.

5. The learned Senior Counsel for the petitioner contends that the



summoning of the railway officials to prove railway ticket and record was essential to establish that the petitioner/complainant was travelling on the train in question on 18.09.2011. Similarly, it was necessary to bring on record the records of the Civil Surgeon to establish that the petitioner had gone for the RNTCP training at the NRL Institute, New Delhi. Since the allegations in the FIR clearly established that the petitioner/complainant was undergoing training at Delhi between 5.9.2011 and 17.09.2011 and was returning back on 18.09.2011, the documents sought to be brought on record were necessary to establish the prosecution version. No new version was sought to be set up and neither was any delay being caused by moving the application in question. The Trial Court had erroneously partly allowed the application without considering the fact that the documents sought to be brought on record were essential for the just adjudication of the case as envisaged under Section 311 Cr.PC. He therefore, contends that the impugned order was liable to be set aside and the application under Section 311 Cr.PC was to be allowed in toto.

6. Respondent no.3-Bhupinder Pal Singh on the other hand contends that the instant application has been moved only with a view to delay the proceedings. Therefore, it was liable to be dismissed.

7. The Counsel for the State has only filed a formal reply detailing the manner in which the proceedings have taken place.

8. I have heard learned Counsel for the parties.

9. A perusal of the FIR would reveal that the petitioner had gone to Delhi for the purposes of Training and was returning back on 18.09.2011 when the occurrence had taken place. By moving the application in question all that the petitioner/complainant is seeking to establish is that she had indeed travel to Delhi for the purposes of training and was returning



back on 18.09.2011. For the said purpose it is necessary to prove her railway ticket and other record of travel for 18.09.2011. Similarly it is also necessary to prove that she had travelled to Delhi for a training programme at the instance of the government between 5.9.2011 and 17.09.2011. For the said purpose the Trial Court ought to summon the relevant witnesses on the details being provided by the petitioner. Therefore, I deem it appropriate to quash the order dated 18.04.2017 (Annexure P-8). The petitioner is at liberty to move a fresh application with the details of the officers/officials required to be summoned to prove the documents/record referred to in the application dated 15.01.2016 (Annexure P-2) within a period of 01 week from the date of receipt of a certified copy of this order. On the details being furnished, the Court shall summon and examine the witnesses and thereafter conclude the Trial within a period of 03 months.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 17, 2024
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No