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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 1983-2023 (O&M)

Date of Decision: 08.02.2024

GURJEET KAUR

.....PETITIONER

Vs.

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Mohit Kumar, Advocate,
for the petitioner.

Ms. Himani Arora, A.A.G., Punjab.

HARPREET KAUR JEEWAN J. (ORAL)

1. Prayer in the present Criminal Revision Petition is for setting aside the order dated 01.06.2023 passed by the learned Additional Sessions Judge, Sangrur, whereby the application filed by the petitioner under Section 319 Cr.P.C. summoning the additional accused, i.e. respondents No. 2 to 9 has been dismissed.
2. Counsel for the petitioner *inter alia* contends that the petitioner got registered the FIR (Annexure P-1) with the allegations that she met the accused Gursewak Singh in a wedding function and thereafter, he started interacting with her. The petitioner-complainant stayed with accused Gursewak Singh for about 03 years and during this period the accused had physical relationship with her but when the petitioner asked the accused to get married, he started avoiding her. The petitioner came to know that accused is having relations with another girl. Then she interacted with the said girl and ultimately the accused Gursewak Singh entered into an

agreement before the '*Panchayat*' and the said girl agreed that she will have no relationship with Gursewak Singh. Even thereafter, accused Gursewak Singh and his family members refused to perform marriage of Gursewak Singh with the complainant. As per the '*Panchayati*' compromise, accused Gursewak Singh agreed to perform marriage on or before 03.12.2022 but he has refused to perform marriage and he had been sexually exploiting the complainant on the pretext of marriage.

3 Counsel for the petitioner further contends that in the FIR, the petitioner had named Sarabjit Kaur (sister), Dharampal (brother-in-law) and other family members of accused Gursewak Singh but no '*challan*' was presented against them. The petitioner appeared as a witness during the trial as PW-1 and she has categorically stated that the entire family of the accused have assured her that they would solemnize the marriage of accused Gursewak Singh with the complainant. She has specifically named the family members of the accused despite that the trial Court has dismissed the application and did not take cognizance by summoning the family members of the accused Gursewak Singh.

4. Learned State counsel contends that the other accused named in the FIR were declared innocent during investigation and therefore the '*challan*' was not filed against the said persons.

5. The petitioner is seeking the relief of summoning of private respondents to face trial who happened to be near relatives of Gursewak Singh accused against whom the allegations for commission of the offence Section 376 (2) (n) of the IPC have been levelled. The trial Court has observed that as per Section 319 Cr.P.C. summoning cannot be done on the

ground of having some evidence against a person. The trial Court was of the view that the evidence would be of such nature which would satisfy the Court that said person is involved in the crime. The scope of ambit of Section 319 Cr.P.C. has been settled by the Constitution Bench of Hon'ble the Apex Court in Hardeep Singh vs. State of Punjab and others 2014 (3) SCC 92, which has been relied upon by the trial Court while dismissing the application by observing that the evidence led by the prosecution is short of satisfaction to summon the additional accused.

6. A perusal of the FIR, as well as the statement of the petitioner-prosecutrix (PW-1) does not reveal that there is any such evidence on record which can be treated as more than *prima facie* against the private respondents. In the FIR though the private respondents have been named but there are no specific allegations against them. In the statement recorded during the trial (Annexure P-2), the petitioner has improved upon by stating that the whole family of the accused namely Sarabjit Kaur (sister of the accused), Dharampal (brother-in-law of the accused), Hemraj Singh (father of the accused), Paramjit Kaur, (mother of the accused), Sandeep Kaur (elder sister of the accused), Avtar Singh (brother in law of the accused), Reena (younger sister of the accused) were already present in the house of Sarabjit Kaur and they told her that they will solemnize her marriage with the accused, whereas in the FIR, there are no such allegations. While appearing in the Court, the petitioner has further improved and alleged that the aforesaid relatives were present in the house of Sarabjit Kaur. The petitioner and the accused were given a separate room in the house of Sarabjit Kaur and accused Gursewak Singh committed forcible sex with her. Despite that she

resisted and told the accused that they would develop the relations only after the marriage is solemnized.

7. There are major improvements in the statement recorded during the trial. Considering the facts and circumstances on record, merely by naming the private respondents in the FIR, without there being any attributions of specific allegation, the trial Court has rightly observed that the evidence is short of the standard as fixed by Hon’ble the Apex Court in Hardeep Singh’s case (*supra*). No illegality is found in the order passed by the trial Court while dismissing the application under Section 319 Cr.P.C.

8. No ground for interference is made out.

9. Consequently, the present petition is dismissed.

10. Pending miscellaneous application (s), if any, shall also stand disposed of.

February 08, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No