



CRR-2334-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2334-2024 (O&M)

Date of Decision:- 28.01.2025

Ram Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Samay Sandhawalia, Advocate
for the petitioner.

Mr. Kewal Singh, Addl. A.G. Punjab.

Mr. Anshumaan Dalal, Advocate
for the complainant.

AMARJOT BHATTI, J.(Oral)

1. Petitioner Ram Kumar has filed revision against impugned order dated 24.09.2024 passed by learned Additional Sessions Judge, (Exclusive Court), Jhajjar vide which he was summoned to face trial as an accused in FIR No. 442 dated 30.09.2021 under Section 363, 366-A and 376 of IPC and Section 4 of POCSO Act registered at Police Station Beri.

2. Facts of the case are complainant 'R' father of victim gave his statement that his daughter 'V' i.e. victim age about 16 years got missing at about 11:00 pm on 29.09.2021. He alongwith his family members searched for her the whole night but could not find her whereabouts. Complainant doubted that Manpreet who is known to Ram Kumar used to visit their house often. He enticed his daughter i.e. victim and took her away alongwith him. Complainant disclosed mobile phone numbers and further



stated that his daughter also took away alongwith her some articles of her use and mobile phone having No. 7404043928.

Investigation was carried out. Victim was recovered. Her statement under Section 164 Cr.P.C. was recorded and after completion of investigation challan was presented against accused Karamjeet @Manpreet. Chargesheet was accordingly framed. On recording statement of victim as PW-1, prosecution filed application for summoning of accused Ram Kumar which was allowed by passing impugned order dated 24.09.2024.

3. Learned counsel for petitioner argued that initially when FIR was registered no role was attributed to petitioner Ram Kumar. Thereafter, during investigation when victim was produced before Child Welfare Committee, Jhajjar, the Counselor submitted report dated 06.10.2021 (Annexure P-2) where again there were no allegations against present petitioner. Victim was produced before Additional Chief Judicial Magistrate, Jhajjar and her statement was recorded under Section 164 Cr.P.C. where the victim alleged that Ram Kumar-Coach committed wrong things with her approximately six months ago and when she got pregnant he administered pills to her and also threatened her father. The victim levelled allegations against petitioner for the first time and gave improved version. Matter was investigated and present petitioner was found to be innocent. Only Karamjeet @ Manpreet was challaned to face trial. In-fact, there was another FIR No. 466 dated 11.10.2021 under Section 376, 452, 506, 511, 354-A, 323, 147, 149 of IPC and Section 6, 18 of POCSO Act registered at Police Station Beri, Jhajjar (Annexure P-6). Matter in that case



was compromised and cancellation report was accepted as per order dated 13.08.2024 (Annexure P-5). Thereafter, in the trial in FIR No. 442 dated 30.09.2021 (supra) (Annexure P-1), application was filed to summon present petitioner. There is no medical report to confirm that victim was ever pregnant or said pregnancy was terminated. Allegations against him are without any basis. There was no sufficient evidence on record to summon petitioner on application under Section 319 Cr.P.C. Learned trial Court has failed to consider all aspects of present case and has wrongly passed impugned order dated 24.09.2024 vide which he was summoned to face trial alongwith main accused. It is submitted that impugned order dated 24.09.2024 may kindly be set aside by accepting present revision.

4. On the other hand, learned counsel representing complainant opposed criminal revision referring to statement of victim recorded under Section 164 Cr.P.C. (Annexure P-3). Said version was duly confirmed when victim stepped into the witness box as PW-1. Her statement is Annexure P-7. Petitioner is specifically named and specific role is attributed to him. Therefore, impugned order dated 24.09.2024 passed by learned Additional Sessions Judge, (Exclusive Court), Jhajjar does not require any interference and revision preferred by petitioner may be dismissed.

5. On the other hand, learned counsel representing State confirmed the factual position. During investigation, present petitioner Ram Kumar was found to be innocent and accordingly, he was not challaned. Challan was presented only against Karamjeet @ Manpreet who is already facing trial. It is matter of record that present petitioner is



summoned to face trial alongwith other accused by passing impugned order dated 24.09.2024 on application under Section 319 Cr.P.C. It is pointed out that present petitioner was named by victim when her statement was recorded under Section 164 Cr.P.C. He can also face trial alongwith main accused and can raise his defence at appropriate stage.

6. I have considered the arguments and have gone through the record carefully. Present FIR was registered on the statement of complainant 'R' who is father of victim. As per contents of FIR No. 442 dated 30.09.2021 (supra) (Annexure P-1), allegations were raised against Manpreet-main accused who is already facing trial in this case. Thereafter, victim was recovered and was produced before the Magistrate for recording of her statement under Section 164 Cr.P.C. on 04.10.2021, where she named present petitioner as Ram Kumar-Coach, that he allegedly committed wrongful act with her approximately six months ago. She further alleged that she got pregnant and he administered pills to her and also threatened her. Later she was produced before Child Welfare Committee, Jhajjar. Counselling report dated 06.10.2021 is Annexure P-2 where the victim behaved in a normal fashion and disclosed about the occurrence to Counselor. She nowhere named present petitioner. Thereafter, she stepped into witness box as PW-1 and mentioned her age as 17 years old. She in her examination-in-chief stated that during winters of 2018, while she was practicing wrestling in *akhada* of Ram Kumar of their village, while running she was taken to an isolated place in fields and committed forcible rape with her against her wishes. He repeatedly raped her when he found an opportunity. She became pregnant and when this fact



was told to Coach Ram Kumar, he brought set of four tablets and gave it to her and her pregnancy was terminated.

Even if said allegations against Ram Kumar-Coach present petitioner are concerned, that has nothing to do with occurrence which took place on 29.09.2021. Present petitioner did not play any role when main accused Manpreet allegedly enticed away victim from her house on 29.09.2021. Therefore, occurrence which took place on 29.09.2021 or occurrence which is alleged qua Ram Kumar petitioner, same cannot be connected with each other. For summoning of additional accused under Section 319 Cr.P.C., the Court is required to look into the form of evidence which appears against such person who committed any offence and secondly, the Court is to look into whether said additional accused could be tried with accused already facing trial. Therefore, considering the sequence of events, present petitioner Ram Kumar cannot be tried alongwith main accused Karamjeet @ Manpreet regarding alleged occurrence which took place on 29.09.2021. Therefore, summoning of present petitioner as additional accused in this FIR No. 442 dated 30.09.2021 (Annexure P-1) vide order dated 24.09.2024 is not justified. Resultantly, impugned order dated 24.09.2024 passed by learned Additional Sessions Judge, (Exclusive Court), Jhajjar is accordingly, set aside by accepting present criminal revision.

It is made clear that since the victim has levelled serious allegations against present petitioner while giving her statement under Section 164 Cr.P.C. as well as when she appeared before the Magistrate as PW-1 (Annexure P-7), complainant/victim as well as Investigating Agency

is at liberty to investigate said allegations and to proceed as per law.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

28.01.2025

(AMARJOT BHATTI)
JUDGE

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