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

**CRR-1418-2025
Date of Decision: 28.05.2025**

Pxxxxx

..... Petitioner

Versus

State of U.T., Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Davinder Lubana, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present revision petition has been filed under Section 442 of BNSS, 2023 for challenging the order dated 04.03.2025 passed by learned Fast Track Special Court, Rape & POCSO Cases, Chandigarh vide which an application under Section 358 of BNSS (erstwhile Section 319 Cr.P.C.) moved by the petitioner/complainant for summoning respondents No.3 & 4, namely, Gajje Singh and Kwalta Devi, who are the parents of the main accused, namely, Ashish Kumar as additional accused in the present case has been dismissed.

2. Learned counsel for the petitioner submitted that the present FIR was registered by the petitioner vide Annexure P-2 by alleging that Ashish Kumar (Respondent No.2), who is the son of respondents No.3 & 4 (who are sought to be summoned as additional accused), had developed physical relationship with the petitioner on multiple occasions over a long period of time and thereafter he refused to marry her. It was further alleged



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by the petitioner that respondents No.3 & 4, who are the parents of Ashish Kumar told her that they will tell their son to marry her and therefore, the allegations against respondents No.3 & 4 are that they both are in connivance with the aforesaid Ashish Kumar who developed physical relations with the complainant/petitioner on the false pretext of marriage. He further submitted that when the application under Section 358 of BNSS (erstwhile Section 319 Cr.P.C.) was filed by the petitioner for summoning of the aforesaid persons as additional accused in the present case, the same was erroneously dismissed by the learned Judge, Fast Tract Special Court, Rape & POCSO Cases, Chandigarh and therefore, the impugned order is liable to be set aside. He also submitted that when the FIR was lodged by the petitioner, respondents No.3 & 4 were not arraigned as accused although allegations were made against them as well.

3. I have heard the learned counsel for the petitioner.

4. It is a case where the complainant/petitioner had lodged an FIR vide Annexure P-2 against one Ashish Kumar by alleging that they were in a relationship from the year 2017 but afterwards he refused to marry her and the aforesaid two persons i.e. respondents No.3 & 4, who were sought to be summoned, were instigating the aforesaid Ashish Kumar to not marry the complainant/petitioner and therefore, they ought to have been arraigned as additional accused in the present case although allegations were levelled against them in the FIR as well but they were not arraigned as accused and similar allegations were also made by the complainant/petitioner at the time of deposition before the Court. A perusal of the impugned order would show that learned Judge, Fast Track Special Court, Rape & POCSO Cases has considered the aforesaid aspect as to whether there are justifiable reasons for



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summoning respondents No.3 & 4 as additional accused or not. While referring to the details of allegations made by the petitioner in the FIR and also the deposition of the petitioner before the trial Court at the time of trial, the learned Court came to the conclusion that although some allegations were levelled against respondents No.3 & 4 but those are only pertaining to instigating their son i.e. Ashish Kumar to not marry the complainant/petitioner and they were never arraigned as accused in the FIR. Learned Judge, Fast Track Special Court, Rape & POCSO Cases referred to the settled law as laid down by Hon'ble Supreme Court in number of cases including a judgment passed by a Constitutional Bench of Hon'ble Supreme Court in "**Hardeep Singh Vs. State of Punjab**" (2014) 3 SCC 92 wherein it was held that whenever a person is to be summoned as an additional accused, extra caution and diligence has to be seen and there has to be strong and sufficient reason to summon a person as an additional accused and the standard of proof is not only a *prima facie* satisfaction of the Court but there should be more than *prima facie* satisfaction. The standard of proof should be much stronger and greater than the standard of proof which is to be seen at the time of framing of the charges. Learned Judge, Fast Track Special Court, Rape & POCSO Cases after referring the aforesaid judgment of Hon'ble Supreme Court passed in ***Hardeep Singh's Case (Supra)*** and also the judgment of Hon'ble Supreme Court passed in "**Sarabjeet Singh and another Vs. State of Punjab and another**", AIR 2009 SC 2792 in this regard had come to the conclusion that no such *prima facie* case is made out against respondents No.3 & 4, who are the parents of the aforesaid Ashish Kumar and therefore, had dismissed the application under Section 358 of BNSS (erstwhile Section 319 Cr.P.C.)

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5. The law with regard to summoning of an additional accused in an application under Section 358 of BNSS is no longer *res integra*. The standard of proof for the purpose of summoning a person as an additional accused is on a very high pedestal. Rationale behind the same is the liberty of an individual which has to be seen on the basis of facts and circumstances of each and every case. In case there is no *prima facie* satisfaction then a person, who is sought to be summoned, cannot be summoned as an additional accused under Section 358 of BNSS. In other words, there has to be not only cogent reasons but also very strong reasons for summoning a person as an additional accused. In the facts and circumstances of the present case, the persons, who are sought to be summoned are respondents No.3 & 4 who are the parents of the main accused, namely, Ashish Kumar, regarding whom, the allegations were that they being parents of the aforesaid Ashish Kumar were instigating him not to marry the present petitioner. Additional allegation was levelled against respondent No.4, who is the mother of Ashish Kumar that she was also pressuring the petitioner not to pursue the complaint.

6. This Court is of a considered view that such kind of allegations itself cannot become a ground for summoning the aforesaid persons as additional accused and do not constitute a very strong reason for summoning them as additional accused. On the face of it, the aforesaid Ashish Kumar is the main accused, who had allegedly developed physical relationship with the petitioner at multiple occasions from the year 2017 on the false pretext of marriage and it appears that only in order to implicate respondents No.3 & 4, an application was moved by the petitioner under Section 358 of BNSS. The aforesaid application does not satisfy the test laid down by Hon'ble Supreme



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Court in *Hardeep Singh's Case (Supra)*.

7. The present is a revision petition of which even the scope is very limited. This Court does not find any illegality or perversity in the impugned order dated 04.03.2025 passed by the learned Fast Track Special Court, Rape & POCSO Cases, Chandigarh.

8. Consequently, finding no merit in the present revision petition, the same is hereby dismissed.

28.05.2025

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |