



**IN THE HIGH COURT OF MADHYA PRADESH**

**AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE PRANAY VERMA**

**ON THE 16<sup>th</sup> OF JANUARY, 2025**

**CRIMINAL REVISION No. 4729 of 2024**

***MANJU SHRIVASTAVA***

***Versus***

***THE STATE OF MADHYA PRADESH***

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**Appearance:**

Shri Neeraj Kumar Soni, learned counsel for the petitioner.

Shri Anirudh Malpani, learned Govt. Advocate for the respondent/State.

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**ORDER**

1. This revision under Section 438 read with Section 442 of the BNSS has been preferred by the petitioner being aggrieved by the order dated 02.06.2024 passed by the trial Court whereby her application under Section 319 of the Cr.P.C. has been rejected.



2. As per the prosecution, on 18.02.2019 a complaint was lodged by the petitioner to the effect that she is residing at her house along with her husband and son and his three children. On 09.02.2019 her son had come home and had fallen ill. She had called her daughter and son-in-law to her home for his treatment. On seeing them his son beat them and abused her. He also beat his children and stated that he shall take them with him to Bangalore and if he is stopped he shall kill them. On the basis of the complaint lodged by the petitioner investigation was commenced during the course of which statements of children of the accused were recorded in which they stated that their father has been responsible for the death of their mother and he had not given her proper treatment. After that he has been touching them with a bad touch and has been committing various heinous acts with them. He used to get females from his office at home. He always used to drink and make them sleep with him in the bed. Various other allegations as regards unnatural sexual advances were made.

3. On the basis of the complaint and the investigation FIR was registered against the accused and the matter was proceeded with. After completion of the investigation charge-sheet has been filed before the Court concerned.

4. During proceedings before the trial Court the petitioner filed an application under Section 319 of the Cr.P.C. for impleading one Sanjeev Ameen also as an accused in the case. It was submitted that in



the statements of the minor children (victims) recorded by the Child Welfare Committee, Indore name of Sanjeev Ameen had been clearly revealed. In their statement under Section 164 of the Cr.P.C. also and in evidence before the trial Court his name has been specifically mentioned by the victims. The application was contested by the accused and has been rejected by the trial Court by the impugned order primarily on the ground that in the complaint and her statement the petitioner had not stated anything against Sanjeev Ameen. The victims had also not made any such statement. Earlier a complaint was preferred by the petitioner against Sanjeev Ameen which was dismissed with liberty that in case it is found during investigation that he has committed any offence he may be impleaded as an accused or the petitioner may file a separate complaint. Thereafter charge-sheet has been filed before the Court in which he has not been made an accused. The application has been preferred belatedly.

5. As per Section 319 of the Cr.P.C. it is not only during course of inquiry but also during course of trial that a person may be impleaded as an accused and be proceeded with if it appears that he has committed any offence for which he could be tried together with the already impleaded accused. The trial Court has relied upon the proceedings prior to filing of the chargesheet and during investigation which were not relevant. If earlier a complaint had been filed by the petitioner which had been dismissed with observations and liberty, that did not preclude the power of the Court to array any person as an



accused if during trial it appeared that he had committed any offence. The liberty granted to the petitioner earlier would not arrest the power of the Court so also the reason that the investigating agency has not chosen to implead Sanjeev Ameen as an accused. The impleadment can be done during course of trial hence the ground of delay in rejecting the application does not hold good.

6. It is not to be seen as to whether the person sought to be made an accused has not been named initially but it has to be seen as to whether there is any material showing his involvement at any stage. Reliance by the trial Court on the initial complaint made by the petitioner, application made by her to the Police Station and the omission of the victims to name Sanjeev Ameen in their statements under Section 161 of the Cr.P.C. were hence wholly irrelevant. In the statement given by them under Section 164 of the Cr.P.C. they had specifically named him. In the letter dated 06.03.2019 written by Child Welfare Committee also the allegations as leveled by the victims against Sanjeev Ameen were mentioned. Despite that if the prosecution has not arrayed him as an accused it did not denude the trial Court of its power for directing his impleadment as an accused.

7. In his statement recorded before the trial Court as PW-1, the victim No.1, who is son of the present accused, has clearly stated that the accused used to come drunk at night and used to beat him and her sisters and used to do dirty acts with him and her sisters. He clearly



stated that along with him his friend Sanjeev Ameen also used to come home and used to touch him in an inappropriate manner and also used to touch his private part. There is hence clear statement by one of the victims as regards the criminal act having been committed by Sanjeev Ameen. This in itself was sufficient for him to be impleaded as an accused. The trial Court in view of the statement ought to have itself made him an accused in the case but it did not do so and when application was preferred by the petitioner for the said purpose has dismissed the same on wholly irrelevant considerations. In view of categorical statement of one of the victims impleadment of Sanjeev Ameen as an accused is legally warranted and imperative in the matter.

8. As a result of the aforesaid discussion, in my opinion, the trial Court has erred in rejecting the application under Section 319 of the Cr.P.C. preferred by the petitioner. The impugned order dated 02.06.2024 passed by it is set aside and the application preferred by the petitioner stands allowed. The trial Court is directed to proceed further in accordance with law.

9. The petition is accordingly allowed and disposed off.

**(PRANAY VERMA)**  
**JUDGE**

