

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.No. M-10899 of 2015

Date of Decision: April 08, 2015

Priya Jain

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.KS Sidhu, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J.

An application filed by Priya Jain wife of Pankaj Jain under Section 319 of the Code of Criminal Procedure (for short 'the Code') for summoning Annu, sister-in-law (Jethani), Neeraj, brother-in-law (Jeth) and Ajit, brother-in-law (Devar) as additional accused to face trial pertaining to case FIR No.480 dated 19.9.2009, under Sections 498-A, 406, 506, 34 of the Indian Penal Code, registered at Police Station City, Gurgaon, was dismissed vide order dated 17.12.2014 passed by Judicial Magistrate Ist Class, Gurgaon. A revision petition directed against the order dated 17.12.2014 has also been dismissed in terms of order dated 2.3.2015 passed by the learned Additional Sessions Judge, Gurgaon.

2. Against such backdrop, the instant petition has been

filed under Section 482 of the Code of Criminal Procedure assailing the order dated 2.3.2015 passed by the learned Additional Sessions Judge, Gurgaon, Annexure P5, and raising a prayer for summoning of private respondents No.2 to 4 as additional accused.

3. It may be briefly noticed that the FIR in question was registered on the complaint of the present petitioner, namely, Priya Jain against her husband Pankaj Jain, Vijender Jain father-in-law, Smt.Jai Mala mother-in-law, Annu, sister-in-law/Jethani, Neeraj, brother-in-law/Jeth and Ajit, brother-in-law/Devar. Upon completion of investigation, challan was filed against husband, mother-in-law and father-in-law whereas private respondents herein No.2 to 4 herein were found innocent and their names figured in column No.2 of the challan. After presentation of challan, charges were framed against the husband, father-in-law and mother-in-law on 7.4.2011. Father-in-law Vijender Jain is stated to have died on 30.4.2014 and as such, it is the husband and mother-in-law who are facing trial.

4. During the course of trial, present petitioner Priya Jain was examined as PW3 and her brother, namely, Jitender was examined as PW2. Thereafter, an application under Section 319 of the Code was filed for summoning the private respondents herein as additional accused.

5. Having heard learned counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant petition and the same deserves to be dismissed.

6. It is on the statement of the present petitioner Priya Jain, Exhibit PW3/A, that the FIR in question was registered. Statements of Jitender, brother of the petitioner, examined as PW2 and petitioner Priya Jain, examined as PW3 during the course of trial, have been placed and appended on record as Annexures P2 and P3. A reading of the FIR would show that there are allegations with regard to physical and mental torture of the complainant Priya Jain as also in relation to demand of dowry and which are directed against the in-laws (Sasuralwale). No specific allegation/incident is targeted individually against the private respondents herein who are sought to be summoned as additional accused. While being examined before the trial Court, complainant-wife Priya Jain, PW3 has merely re-iterated the allegations contained in the complaint, Exhibit PW3/A, on the basis of which the FIR was registered. That apart, even brother of the complainant Jitender, while examined as PW2 during the course of trial, has merely corroborated the version of his sister.

7. It is by now well settled that while exercising the power under Section 319 of the Code, even though only a prima facie case is to be established from the evidence led but the test laid down is that it would require much stronger evidence than mere probability of the complicity of the person sought to be summoned as additional accused.

8. In the present case, only general and vague allegations with regard to demand of dowry and subjecting the complainant to cruelty have been levelled against the private respondents herein. The application filed by the present petitioner under

Section 319 of the Code seeking to summon the private respondents as additional accused can only be seen as reflective of the recent trend of trying to rope in all the relations of the in-laws.

9. This Court is of the considered view that the Courts below have rightfully dismissed the application filed by the petitioner under Section 319 of the Code while declining to summon the private respondents herein as additional accused and have correctly applied the dictum laid down by the Hon'ble Supreme Court in **Hardeep Singh v. State of Punjab, 2014(1) RCR (Criminal) 623** as regards exercise of powers under Section 319 of the Code.

10. No merit. Dismissed.

April 08, 2015

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether to be referred to Reporter? (Yes/No)