

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No.34 of 2013
Date of Decision : April 06, 2015

Km. Kamaljit Kaur alias Baby

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. J.B.S.Gill, Advocate
for the petitioner.

Mr K.D.S.Sidhu, Addl. Advocate General, Punjab

T.P.S. MANN, J.

Aggrieved of the order dated 12.10.2012 passed by the Additional Sessions Judge, Hoshiarpur whereby the application filed by the prosecution under Section 319 Cr.P.C for summoning her as additional accused was allowed, the petitioner has filed the present revision.

The petitioner, alongwith her brother Lakhbir Singh and nephew Gurcharanjit Singh, was named as accused in FIR No. 197 dated 3.10.2009 under Sections 302/34 IPC registered at Police Station,

Tanda, in relation to the murder of Krishan Gopal @ Kitty. During the investigation of the case, the petitioner was found innocent and her name shown in column No.2 of the report under Section 173 Cr.P.C which was presented against her two co-accused who were, thereafter, charged for committing offences punishable under Sections 302/34 IPC. In support of its case, the prosecution examined PW1 Naresh Chander and PW2 Sushil Kumar, father and cousin, respectively of deceased Krishan Gopal, who testified that the petitioner and her co-accused had given beatings to Krishan Gopal. Further, Lakhbir Singh opened the mouth of Krishan Gopal while Gurcharanjit Singh administered him some poisonous substance. In view of specific allegation against the petitioner of having participated in the commission of crime, an application under Section 319 Cr.P.C was filed by the prosecution for summoning the petitioner as additional accused. Vide impugned order, the trial Court accepted the said application and summoned the petitioner as additional accused.

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the case. During the investigation, she was found innocent and her name placed in column No.2 of the challan. It is further submitted that though the petitioner, alongwith her co-accused, was said to have given beatings to Krishan Gopal, yet the death of Krishan Gopal had not taken place on account of beatings, rather the death resulted on account of consumption of some poisonous substance. There is no allegation that the petitioner had any hand in

administering the poison to the deceased.

Per contra, learned State counsel has submitted that though the petitioner was initially found innocent during the investigation of the case, yet sufficient evidence has come on the record to establish her participation in the commission of crime and, therefore, she has been rightly summoned under Section 319 Cr.P.C to face the trial as additional accused.

Having heard learned counsel for the parties and on going through the impugned order, this Court finds that the petitioner was named as one of the accused, alongwith her brother and nephew when FIR was registered at the instance of complainant Naresh Chander, father of deceased Krishan Gopal. It was alleged that the petitioner, alongwith her co-accused, was armed with iron rod and given beatings to Krishan Gopal by throwing him in the courtyard of their house. It was followed by Lakhbir Singh accused opening the mouth of Krishan Gopal and Gurcharanjit Singh accused pouring some poisonous substance in his mouth. During the investigation of the case, the police found the petitioner innocent and, accordingly, her name was placed in column No.2 of the challan. Subsequently, complainant Naresh Chander and his nephew Sushil Kumar appeared before the trial Court as PW1 and PW2, respectively, when the two co-accused of the petitioner were facing trial. As both PW1 Naresh Chander and PW2 Sushil Kumar specifically named the petitioner, once again, for having taken active part in the commission of crime by causing injuries to

Krishan Gopal, the prosecution filed an application under Section 319 Cr.P.C for summoning the petitioner as additional accused. Merely because the death of Krishan Gopal had not taken place as a result thereof, is no ground to hold that the petitioner could not have been summoned as additional accused. Her presence at the time of occurrence and specific role of causing injuries with iron rod, alongwith her co-accused, to Krishan Gopal deceased is sufficient to establish her involvement in the commission of crime and for that reason no fault can be found in the impugned order whereby the application filed by the prosecution under Section 319 Cr.P.C had been allowed.

In view of above, there is no merit in the revision which is, accordingly, dismissed.

However, nothing stated above be construed as an expression of opinion on the merits of the case.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

April 06, 2015
pds.