

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

**Crl.Rev.No.1910 of 2015 (O&M)**

**Date of decision : 15.7.2015**

Diwan Singh

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.J.P.Sharma, Advocate  
for the petitioner.

.....

**MAHESH GROVER, J.**

The petitioner impugns the order dated 6.5.2015 by which the learned trial court refused to exercise its power under Section 319 Cr.P.C. to summon Suman and Ashok, the sister-in-law and brother-in-law of deceased Nisha. It is to be noticed that the facts would indicate a trial under Sections 304-B, 302 and 120-B IPC where the husband of the deceased, father-in-law, mother-in-law and one other relative are facing prosecution.

Learned counsel for the petitioner refers to the statement made by one Sharda wife of late Gordhan Dass (Witness No.17) where she is said to have testified as below :

“My plot is situated near the house of accused Subhash in village Gawari Jat. Subhash has opened the door from the back side of his house towards my plot.

On 1.4.2014 at around 10 PM, I went to my plot. I used that plot for tethering cattle and storing fuel woods. I saw that a Marshal type vehicle of white colour came and stopped in my plot. Accused Subhash, Santosh and their married daughter Suman, husband of Suman and one person present in the court (witness pointed towards accused Raj Kumar) alighted from the above vehicle. Accused Subhash knocked at the door of his house. The door was opened by Smt. Nisha, since deceased wife of accused Sandeep. All the above five persons went inside the house. The door was closed from inside. After finishing the work in the plot I went back to my house.

On the next day at around 8 AM I came to know that Nisha had hanged herself.....”

Learned counsel for the petitioner with reference to the aforesaid contends that once it is established that these two persons had arrived at the house at the night and in the morning the dead body was discovered, it would naturally be sufficient to presume that they had participated in the crime leading to the death of deceased Nisha by strangulation.

Learned trial Court upon appraisal of the aforesaid has declined to interfere on the strength of various judgments of the Hon'ble Supreme Court in *Mohd. Shafi v. Mohd. Rafiq and*

*another* 2007(2) RCR (Criminal) 762, *Municipal Corporation, Delhi v. Ram Krishan Rohtagi and others* 1983(1) RCR (Criminal) 73 and *Krishnappa v. State of Karnataka* 2004(4) RCR (Criminal) 678.

On perusal of the aforesaid and the provisions of Section 319 Cr.P.C. I would find no reason to differ from what the learned trial court has observed. It is established by now that it is quality evidence sufficient to warrant a conviction of the accused that has to come on record to compel the trial court to exercise its discretion under Section 319 Cr.P.C. which is to be used with great circumspection. The court cannot lose sight of the fact that in matters such as these there is always a tendency of the complainant to implicate as many relatives of the accused as possible. But brushing this aspect also aside there is hardly any evidence on record and merely because two persons who are relations come on a day subsequent to which an unnatural incident takes place would not be sufficient to presume their complicity.

No ground to interfere.

Dismissed.

15.7.2015  
dss

(MAHESH GROVER)  
JUDGE