

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Revision No. 3445 of 2014
Date of decision: 28.8.2015**

Julekhan

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. N.S.Shekhawat, Advocate
for the petitioner.

Ms. Trishanjali Sharma, AAG, Haryana.

Mr. Rohan Mittal, Advocate
for respondents No. 2 to 4.

SABINA, J.

Petitioner has filed this petition under Section 401 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging the order dated 4.9.2014 whereby application moved by the prosecution under Section 319 Cr.P.C. for summoning respondents No. 2 to 4, as additional accused, was dismissed.

Learned counsel for the petitioner has submitted that there are specific allegations against respondents No. 2 to 4. The Trial Court fell in error while dismissing the application moved by the prosecution for summoning respondents No. 2 to 4 to face the trial as additional accused.

Learned counsel for respondents No. 2 to 4, on the other hand, has opposed the petition and has submitted that the said respondents were found innocent during investigation. In fact, respondent no. 2 was presently residing in Gurgaon whereas at the time of alleged occurrence, he was staying at Kurukshetra.

Younger sister of the petitioner was married to respondent No. 3.

Prosecution story, in brief, is that petitioner got married to Aarif on 20.2.2005. On 9.9.2012, she was brought back to her matrimonial home by her husband. At that time, parents of the petitioner were assured that Aarif or his family members would not harass her. However, respondents No. 2 to 4 and the husband of the petitioner started harassing the petitioner. On 28.11.2012, at about 10.00 A.M., petitioner was given beatings by accused Aarif and respondents No. 2 to 4. Petitioner was confined in her room and was not provided meals. Mobile phone given to the petitioner by her father was also taken away by the accused. On 29.11.2012, at about 8.00 A.M., mother-in-law of the petitioner served tea to her. Petitioner got suspicious and did not consume the same. On the same day, father of the petitioner visited her. The accused tried to give beatings to the father of the petitioner and Abdul Karim and threatened to kill her father. Thereafter, petitioner approached the police. Petitioner handed over the cup of tea, served to her by her mother-in-law, to the police.

Section 319 Cr.P.C. reads as under:-

“Power to proceed against other persons appearing to be guilty of offence:-

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he

may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then-

(a) the proceedings in respect of such person shall be commenced afresh, and witnesses re-heard.

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.”

Thus, as per the above provision, the Trial Court may summon any person to face the trial as an accused if there is sufficient material available against the said person during trial to proceed against him.

Annexure P-2 is the medico-legal report of the petitioner. A perusal of the same reveals that she had not suffered any external injury and had complained of pain in her lumbar region and occipital region. Respondents No. 2 to 4 were found innocent during investigation. It appears that there was some

matrimonial discord between the petitioner and her husband. In case on 28.11.2012, petitioner had been given beatings by all the accused as alleged by her, she would have probably suffered more injuries whereas as per the medico-legal report on record, she had not suffered any external injury but had only complained of pain. Further the incident dated 29.11.2012 alleged by the petitioner also does not inspire confidence. In case the mother-in-law of the petitioner had actually served some poisonous substance to the petitioner in a cup of tea, she (mother-in-law) would have ensured that the same was actually consumed by the petitioner and would not have left the same with the petitioner to be produced before the police. It appears that respondents No. 2 to 4 have been arrayed as accused on account of their relationship with Aarif.

In **Kans Raj vs. State of Punjab and others, 2000 (2) RCR (Criminal) 696 (SC)**, their Lordships of the Apex Court have observed that a tendency has developed for roping in all the relations in dowry cases and if it is not discouraged, it is likely to affect case of the prosecution even against the real culprits. The efforts for involving the other relations ultimately weaken the case of the prosecution even against the real accused.

In the facts and circumstances of the present case, the learned Trial Court had rightly dismissed the application moved by the prosecution to summon respondents No. 2 to 4 as additional accused, though for different reasons.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

August 28, 2015

Gurpreet

GURPREET SINGH
2015.09.03 15:26
I attest to the accuracy and
authenticity of this document