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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.3485 of 2015 (O&M)

Date of Decision: September 17, 2015.

Vinesh Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 12.08.2015, whereby application moved by the prosecution under Section 319 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short), was dismissed.

Learned counsel for the petitioner has submitted that the petitioner had categorically stated in his statement that his daughter Anu was being harassed by her husband as well as respondents No.2 to 4 on account of demand of dowry. All the accused were demanding ₹4,00,000/-. Daughter of the petitioner had died within forty five days of her marriage.

Section 319 of 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 Court has ample power to summon a person as an additional accused to face the trial with the accused already facing trial, if there is enough material on record to proceed against the said person.

Prosecution story, in brief, is that Anu daughter of the petitioner got married to Gaurav on 14.02.2014. Petitioner had given sufficient dowry to his daughter at the time of her marriage. However, after two days of marriage, respondents No.2 to 4 and Gaurav alleged that they were not happy with the dowry given by the petitioner as they expected a bigger Car. Accused raised a demand of ₹4,00,000/-. Gaurav as well as respondents No.2 to 4 had been harassing and maltreating the daughter of the complainant on account of insufficiency of dowry. On 31.03.2014, petitioner got the information that his

daughter Anu was seriously ill. Petitioner was not permitted to talk to his daughter. Petitioner came to know that his daughter had died. After completion of investigation and necessary formalities, challan was presented against the accused Gaurav. However, respondents No.2 to 4 were kept in column No.2 as they were found innocent during investigation.

In the present case, although, Anu had died within one and a half month of her marriage but as per PW6 Dr. Tarun Dagar, the deceased had died on account of kidney failure and its complications. Further as per the report of the chemical examiner, no common poison could be detected in the viscera sent to Forensic Science Laboratory, Madhuban.

In view of the medical opinion and the fact that the respondents No.2 to 4 were found innocent during investigation, the learned trial Court rightly ordered the dismissal of the application moved by the prosecution under Section 319 Cr. P.C. for summoning respondents No.2 to 4 to face the trial as additional accused.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

September 17, 2015
mahavir