

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revn. No. 3648 of 2015

DATE OF DECISION: 09.10.2015

Rajender Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. Vijay Sangwan, Advocate
for the petitioner.

DAYA CHAUDHARY, J.

The present revision petition has been filed to challenge order dated 22.7.2015 passed by Additional Sessions Judge, Narnaul, whereby, the application filed by the complainant under Section 319 Cr.P.C. to summon respondents No.2 and 3 has been dismissed.

Learned counsel for the petitioner contends that the trial Court has passed the impugned order without appreciating the evidence available on the record. Respondents No.2 and 3 were specifically named in the FIR and specific roles were also attributed to them. The complainant, who is brother of the deceased, was examined as PW-1 in the Court and has specifically mentioned the roles of the persons sought to be summoned and has also levelled specific allegations of demand of dowry and car but still the application has been dismissed.

Heard the arguments advanced by learned counsel for the petitioner and have also gone through the impugned order as well as other documents available on the file.

Admittedly, respondents No.2 and 3 were found innocent during the investigation and were kept in column No.2. Thereafter, an application was moved by the prosecution under Section 319 Cr.P.C. for summoning of said two witnesses, which was dismissed on 22.7.2015 on the ground that there was no evidence available on the record to connect respondents No.2 and 3. The evidence adduced by the complainant was considered by the investigating agency during investigation and respondents No.2 and 3 were not found to be involved in the commission of offence. It is also mentioned in the impugned order that there was no possibility that the persons sought to be summoned could face trial along with other accused who are facing trial and could be convicted for commission of offence. As per provisions of Section 319 Cr.P.C., in case it is found during inquiry or trial that any person not being the accused has also committed any offence then such person can be tried together with the accused who are facing trial and can be summoned to face trial along with other accused. The Court is to form an opinion on the basis of evidence which has come on record or which has not been considered by the investigating agency during investigation that the person sought to be summoned is also involved in the commission of offence and that person is also involved but he has not been challaned. The Court is to see that there is a reasonable prospect of the case against the newly added accused ending in his conviction for the offence concerned. The Court is to consider the evidence against the persons sought to be summoned but in case no fresh evidence is there and same evidence is there, which has been collected during investigation then the summoning Court has to form

an opinion on the basis of evidence, which has been considered or has subsequently come on record, which has not been considered by the investigating agency. In the present case the allegations levelled against respondents No.2 and 3 were considered but they were not found to be involved in the case. On the same allegations, subsequently an application under Section 319 Cr.P.C. was moved. A perusal of Roznamcha dated 1.8.2014 registered at the instance of Anju (since deceased) wife of Tej Pal shows that in an application moved by Anju, it was stated that her husband had started to harass her within a period of three months of her marriage for bringing more dowry. There was no allegation with regard to involvement of mother-in-law and father-in-law or any other family member except accused-Tejpal. It has also come on record that it was father-in-law and mother-in-law of the deceased, who took the deceased to the hospital for medical treatment before death. That part of the allegation has been considered by the investigating agency and both respondents No.2 and 3 were found to be innocent. Main accused, who is husband of the deceased is already facing trial.

Accordingly, there is no merit in the submissions made by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

October 09, 2015
pooja

(DAYA CHAUDHARY)
JUDGE