

In the High Court of Punjab and Haryana at Chandigarh

CRR No.3728 of 2015

Date of decision: 06.10.2015

Balkar Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Parminder Singh, Advocate for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 17.7.2015 whereby an application moved by the prosecution under Section 319 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), was dismissed.

Learned counsel for the petitioner has submitted that the trial Court has erred in dismissing the application moved by the prosecution under Section 319 Cr.P.C. for summoning respondents No. 2 to 4 as additional accused. In fact, the deceased had been harassed by the said respondents along with their co-accused on account of demand of dowry.

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.

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.

Prosecution story, in brief, is that Sushma, daughter of the petitioner got married to Sushil on 14.2.2013. Petitioner had spent ₹25,00,000/- at the time of marriage of his daughter and had given sufficient dowry. However, husband, father-in-law, mother-in-law and respondents No. 2 to 4 were not satisfied with the dowry given by the petitioner and started harassing his daughter. On 9.9.2014, at about 5.30 p.m., petitioner received a phone call that his daughter had fallen in the bathroom and had suffered an injury. Petitioner reached Ramchander Memorial Hospital and noticed that his daughter had strangulation marks on her neck and black marks on her legs. Sushma, daughter of the petitioner remained admitted in the hospital from 9.9.2014 to 18.9.2014. On 19.9.2014, daughter of the petitioner was brought to Apollo Hospital and the doctors informed that nothing could be done. While Sushma was being brought back, she succumbed to her injuries.

A perusal of the FIR as well as the statement Annexure

P2 of the complainant during trial reveals that there are no specific allegations against respondents No. 2 to 4. In fact, general allegations have been levelled against respondents No. 2 to 4.

So far as respondent No.3-Sushma is concerned, she is the married sister-in-law of the deceased. Respondent No.3 had got married to respondent No.4 on 11.12.2011, i.e. much prior to the marriage of the deceased.

It has been noticed by the trial Court that so far as respondent No.2-Ramesh is concerned, he was residing in village Bastali with his maternal grand mother and there was nothing on record to suggest that he was residing with his parents. Respondents No. 2 to 4 were found innocent during investigation . It appears that respondents No. 2 to 4 are being sought to be summoned to face trial as additional accused on account of their relationship with the husband of the deceased. There is a general tendency to involve all the family members of the deceased in such like offences.

In the facts and circumstances of the present case, the trial Court had rightly dismissed the application moved by the prosecution under Section 319 Cr.P.C. No ground for interference is made out.

Dismissed.

**(Sabina)
Judge**

October 06, 2015

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