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

CRR No.3847 of 2014

Date of decision: August 25, 2015

Rajesh @ Leela and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Salil Bali, Advocate
for the petitioners.

Ms. Mahima, AAG Haryana.

Mr. Navneet Singh, Advocate
respondent No.2.

SABINA, J

Petitioners have filed this petition challenging the order dated 28.10.2014, whereby application moved by the prosecution for under Section 319 of Code of Criminal Procedure, 1973 ('Cr. P.C.' for short), was allowed.

Learned counsel for the petitioner has submitted that marriage of the deceased Rakesh was performed with Surender about 15/16 years prior to the occurrence. Four children were born out of the said wedlock. Petitioner No.1 is the younger brother of Surender, whereas, petitioner No.2 is the mother of Surender. Petitioners were residing separately and had no concern with the matrimonial life of Surender and Rakesh. Learned counsel has further submitted that

Annexure P-2 is the Ration Card relating to Surender and his family members, whereas, the petitioners were having separate Ration Card (Annexure P-3). Petitioners were found innocent during investigation.

Learned State counsel as well as the learned counsel for the respondent No.2, on the other hand have opposed the petition.

Prosecution story in brief is that Rakesh youngest daughter of the complainant was married to Surender about 15/16 years prior to the registration of FIR. Daughter of the complainant had been blessed with four children out of the wedlock. After marriage of the daughter of the complainant, petitioners and their co-accused Surender started harassing his daughter. Surender and his brother Rajesh-petitioner No.2 used to beat the daughter of the complainant after consuming liquor and forced her to do labour work in the village. Due to this harassment, Rakesh had consumed poison.

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.

Petitioners were found innocent during investigation. From Annexures P-2 and P-3, it is evident that the petitioners were residing in a separate house. Marriage of Surender with the deceased had taken place about 15/16 years prior to the occurrence. Deceased was residing in her matrimonial home along with her husband and her four children. It appears that the petitioners have been involved in this case merely because of their relationship with the husband of the deceased. In the facts and circumstances of the present case, learned trial Court fell in error while ordering the summoning of the accused to face the trial as additional accused.

Accordingly, this petition is allowed. Impugned order dated 28.10.2014 is set aside.

**(SABINA)
JUDGE**

August 25, 2015
mahavir