

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

CRR No.409 of 2014 (O&M)

Prem Lata and another

...Petitioners

Versus

State of Punjab and another

...Respondents

(2)

CRR No.486 of 2014 (O&M)

Kusum Sharma and others

...Petitioners

Versus

State of Punjab and another

...Respondent

Date of Decision: September 30, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.B.D.Sharma, Advocate
for the petitioners.

Mr.B.S.Bhullar, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Atul Goyal, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together
being arisen from same impugned order.

Petitioners of above-said two revision petitions namely

Prem Lata, Gaurav Sharma, Kusum Sharma, Kanchan Sharma @

Baby Sharma, Harparkash Sharma and Nirmal Sharma have filed these revision petitions against respondents State of Punjab and Suresh Sharma, under Section 401 Cr.P.C. challenging the impugned order dated 03.01.2014 passed by learned Addl. Sessions Judge, Ludhiana, vide which they were summoned to face trial under Section 306/34 IPC along with three accused already facing the trial.

Notice of motion was issued in both the cases and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petitions.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The brief facts of the case are that an FIR was registered on the statement of Suresh Kumar, brother of deceased Jagdish Chand. During the course of investigation, the above-said six persons were given clean chit and their names were kept in column No.2 whereas accused Seema Sharma, Ajay Kumar and Vijay Kumar were challaned and charges were framed against them. After framing of the charge, complainant deposed in the Court in capacity of PW-1, whereby he reiterated involvement of these six persons for compelling his brother to take extreme step of finishing himself once for all and he further deposed that these six persons should also be summoned to face trial along with three accused who are already facing trial. As per complainant, deceased Jagdish Chand was married to Seema Sharma about 23/24 years back. Two children were born out of this wedlock. One of their son Chandan died five months back from the

date of present occurrence, for which FIR No.25 dated 12.03.2011 was registered against one Shiv Raj Bhanot under Section 302 IPC read with Section 34 IPC. Since, accused Seema Sharma was working in Indian Railways, so she was allotted official accommodation where she used to reside with her husband. There was some sort of dispute between them and due to the dispute, in June 2011, brother of said accused Seema Sharma took their sister along with her daughter Nehal to their home about 1½ months earlier to the occurrence. The deceased was alone in the official accommodation allotted to his wife. The deceased used to tell the complainant about the misdeeds of all the accused persons and also as to how he was victimized by them. Ultimately, fed up with all this at the hands of his in-laws, Jagdish Chand committed suicide.

The perusal of the record, especially the FIR, shows that the main allegations are against the wife Seema Sharma and her two brothers Ajay Kumar and Vijay Kumar, who have shop near their residence and as per prosecution version, they used to interfere and harass the deceased. The challan has already been presented against the wife and her two brothers. There is nothing in the FIR showing any type of abetment by other family members. The other family members are Prem Lata, mother-in-law, Harparkash Sharma alias Raju brother of Seema Sharma, Gaurav son of Harparkash Sharma alias Raju and other accused who were summoned by the Court i.e. Kusum Sharma, Kanchan Sharma and Nirmal Sharma, are wives of brothers of Seema Sharma.

The perusal of the FIR and the record nowhere shows any particular instance against the present petitioners regarding any harassment or any abetment to commit suicide by them. As per the prosecution version, Seema Sharma was married with Jagdish Chand 23-24 years back and their son had died some months before the occurrence, who was about 22 years of age.

At the time of arguments, learned counsel for respondent No.2 mainly relied upon the suicide notes. As regarding one suicide note in which it is simply written that for committing suicide he was compelled by the persons Soni and his wife, Vijay and his wife, Ajay and his wife, Gaurav, Prem Lata mother-in-law and wife Seema Sharma. Nothing has been written in the suicide note as to how he was compelled. The other suicide note was also found. I have also gone through this suicide note. Nothing has been mentioned against the present petitioners as to when and why they gave the abetment to commit suicide. During investigation, nothing has been found against present petitioners. Even in the suicide note, nothing has been mentioned regarding any role played by the present petitioners and rather in this detailed suicide note, there is no mention of the names of Kusum Sharma, Kanchan Sharma, Nirmal Sharma wives of brothers of Seema Sharma, Gaurav Sharma and Harparkash Sharma @ Raju.

It is now settled law that it should appear to the Court from the evidence that accused who are to be summoned under Section 319 Cr.P.C. are involved in the commission of the offence and they

should be tried together with the accused who are already facing trial. Mere names in the suicide note without attributing any abetment by them does not amount that it appears to the Court that the present petitioners are involved in the commission of offence, especially in the facts and circumstances of the present case that Seema Sharma was married with Jagdish Chand about 23-24 years back. Seema Sharma was residing in her government accommodation with her husband and children. As per the allegations, she was taken to her parents' house about 1½ months earlier to the occurrence and there is nothing in the FIR or in the suicide note that the present petitioners have harassed Jagdish Chand to that extent that he was compelled to commit suicide.

In view of above discussion, I find merit in both the revision petitions and the same are allowed. The impugned order dated 03.01.2014 passed by learned Addl. Sessions Judge, Ludhiana, on the application under Section 319 Cr.P.C. summoning the petitioners to face trial, is hereby set aside being not as per law.

September 30, 2015
Vgulati

(INDERJIT SINGH)
JUDGE