

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

**Criminal Revision No.459 of 2015(O&M)
Date of Decision: February 12, 2015**

Kulwant Singh

...Petitioner

Versus

The State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Ashok Kumar Khunger, Advocate,
for the petitioner.

Naresh Kumar Sanghi, J.(Oral)

Challenge in this criminal revision petition is to the order dated 14.1.2015 passed by learned Additional Sessions Judge, Ludhiana, whereby application under Section 319, Cr.P.C., filed by the petitioner for summoning of Gurmail Singh (respondent No.2) and Satminder Kaur (respondent No.3) (parents-in-law) of Sandeep Kaur (since deceased), was dismissed.

Learned counsel contends that the petitioner, Kulwant Singh (PW1) had specifically deposed with regard to the complicity of respondent Nos.2 and 3 with their son Puneet Pal Singh for causing the dowry death of Sandeep Kaur; even Pushpinder Singh (PW8), a cousin of Sandeep Kaur (since deceased), had also deposed with regard to the miseries faced by Sandeep Kaur. He further submits that the viscera report received

from the Chemical Examiner would reveal that there was poison in the viscera of the deceased. It is also well proved on record that Sandeep Kaur had died due to hanging. These two facts would reveal that Sandeep Kaur was initially administered the poison and thereafter more than one person had hanged her, therefore, it be presumed that respondent Nos.2 and 3 had also participated in the hanging of Sandeep Kaur (since deceased).

I have heard the learned counsel for the petitioner and with his able assistance gone through the material available on record.

The present case was registered on the statement of the informant, Kulwant Singh (PW-1), on 02.12.2012. He alleged that Puneet Pal Singh (husband), Gurmail Singh (father-in-law) and Satminder Kaur (mother-in-law) were usually harassing Sandeep Kaur on account of demand of dowry. An amount of Rs.10,00,000/- (Rupees Ten Lacs) by way of cheque was paid to Puneet Pal Singh three or four months prior to death of Sandeep Kaur. After investigation, the charge-sheet was presented for prosecution of Puneet Pal Singh (husband). After framing of the charges, the informant, Kulwant Singh, appeared as PW-1. On the basis of his deposition, an application under Section 319, Cr.P.C., was presented for summoning of respondent Nos.2 and 3 but the same was dismissed vide order dated 08.08.2013. Dissatisfied with the said order, the petitioner approached this Court by way of a

criminal revision petition and the same was permitted to be withdrawn with the liberty to the petitioner to file fresh application on the basis of fresh evidence. After dismissal of the application by Court of Session on 8.8.2013 and before 28.11.2014 when this Court permitted the petitioner to approach learned trial court once again, the deposition of Puspinder Singh (PW-8) was recorded by learned trial court on 9.9.2014. During his deposition Pushpinder Singh proved his statement Ex.PW8/A recorded under Section 175, Cr.P.C., during the course of inquest proceedings. The said statement was already exhibited as Ex.P-1 by SI Sohan Lal (PW-2). The deposition of Kulwant Singh (PW-1) attached with this paper book as Annexure P-2 has been perused by this Court. There is not an iota of word in the said deposition that respondent Nos.2 and 3 maltreated or harassed Sandeep Kaur (since deceased) for or on account of demand of dowry. The whole allegations are against the husband of the deceased. At the end of his deposition, the only thing deposed by the witness was that Puneet Pal Singh, Gurmail Singh and Satminder Kaur were responsible for the death of his daughter. During the cross-examination, the witness was confronted with the improvements made by him in his examination-in-chief, the said confrontation is running into three pages. Perusal of the deposition of Pushpinder Singh (PW8) would reveal that in his examination-in-chief he did depose that Puneet Pal Singh, Gurmail Singh and Satminder Kaur

had asked them as to whether they had brought the money and thereafter handed over the amount of Rs.10,00,000/-(Rupees Ten lacs) to Gurmail Singh, Satminder Kaur and Puneet Pal Singh in the presence of Sandeep Kaur and they counted the cash. The complete cross-examination of Pushpinder Singh (PW8) has not been attached with the paper book. A specific question was put to learned counsel for the petitioner as to whether further cross-examination of Pushpinder Singh (PW8) was conducted or not. Learned counsel replied that he was not aware of the said fact. The comparison of the deposition of Kulwant Singh (PW1) and Pushpinder Singh (PW8) would show that there are severe contradictions in their interse depositions. Kulwant Singh (PW1) had deposed that a cheque of Rs.10,00,000/- (Rupees Ten lacs) was handed over to Puneet Pal Singh, husband of the deceased, in the presence of respondent Nos.2 and 3 while Pushpinder Singh (PW8) deposed that Rs.10,00,000/- (Rupees Ten lacs) were paid in cash to all the three persons i.e husband and parents-in-law and the same was counted. While discussing the said fact learned trial court in para No.11 of the impugned order observed that the statement of Pushpinder Singh (PW8) was recorded under Section 175, Cr.P.C., and the said fact of handing over of the amount was conspicuously missing. The observations of learned trial court are as under-

“The accused have brought on record the photostat copy

of affidavit submitted by complainant Kulwant Singh in the Hon'ble High Court of Punjab and Haryana where he annexed the statement of Pushpinder Singh recorded in the trial court as Annexure P-4 and after that the order dated 28.11.2014 was passed by Hon'ble High Court of Punjab and Haryana in the Criminal Misc. No.M-31872 of 2013 tilted as Kulwant Singh vs. State of Punjab & Ors. As per the statement of Kulwant Singh recorded as PW1 he named Gurmail Singh who informed the complainant that his daughter is not attending the telephone and thereafter, Gurmail Singh did not attend the telephone of complainant. There is no other allegations in the statement of complainant about the demand of dowry by Gurmail Singh or by his wife Satminder Kaur. The statement of complainant Kulwant Singh is silent about the presence of witness Pushpinder Singh at the time of payment of an amount of Rs.10,00,000/- through cheque to accused Puneet Pal Singh. The statement of witness Pushpinder Singh recorded under Section 175, Cr.P.C., which is Ex.PW8/A/Ex.P1 is also silent about the payment of this amount through cheque in his presence although he stated this fact during his examination-in-chief as PW8. There are only general and vague allegations in the statement of witness Pushpinder Singh recorded by the

police under Section 175, Cr.P.C.”

There is no gainsaying while observing that if more than prima facie and less than the full proof case is made out, the additional accused can be summoned to face trial. This Court is of the considered view that in this case there is no material to connect respondent Nos.2 and 3 with the dowry death of Sandeep Kaur and as such, learned trial court has rightly dismissed the application for summoning of the additional accused.

Finding no merit in the present petition, the same is hereby dismissed.

February 12, 2015
seema

(Naresh Kumar Sanghi)
Judge