

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

224

CRR No.833 of 2014

Decided on : 14.07.2015

Harish Chander Sharma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR.JUSTICE HARI PAL VERMA

Present : Mr.P.S.Ahluwalia, Advocate for the petitioner.
Mr.Sultan Singh Gill, DAG, Punjab.
Mr.Navkiran Singh, Advocate for the complainant.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Hari Pal Verma, J. (Oral)

Petitioner has filed the present criminal revision petition under Section 401 Cr.P.C. read with Section 482 Cr.P.C against the order dated 20.1.2014 passed by learned Additional Sessions Judge, Amritsar whereby the petitioner has been summoned as an additional accused under Section 319 Cr.P.C. in FIR No.59 dated 3.4.2013, for an offence punishable under Sections 306/34, IPC registered at Police Station Sadar, Amritsar

Vide order dated 20.1.2014, learned Addl. Sessions Judge, Amritsar has allowed the application preferred by the prosecution under Section 319, Cr.P.C. for summoning Harish Chander Sharma, Bank Officer as an additional accused, so as to face the trial with the co accused already facing the trial.

An FIR No.59 dated 3.4.2013 under Section 306/34 IPC was registered on the statement of Parshotam Lal son of Diwan Chand Sharma. As per the FIR, the complainant was residing in House No.2028, Gali Health Centre Vali, Nehru Colony, Majitha Road, Amritsar along with his wife Asha Rani @ Swarna Rani, alongwith four daughters and two sons for the last about 34-35 years. A woman namely Lata wife of Ravinder Kumar @ Sony was also residing in the same locality and Asha Rani wife of the complainant got acquainted with said Lata and both of them became good friends. Asha Rani came under the influence of Lata and on her advise handed over huge amount to Lata. The said amount was collected by Asha Rani from some relatives including while mortgaging property owned by her family at Ludhiana. Though initially, Asha Rani concealed this transaction/dealings from her family, but with the passage of time when the creditors who had advanced the said amount to Asha Rani pressurized her for repayment of the amount, the complainant acquired the knowledge of these facts. However, Lata who was advanced huge amount, failed to repay the said amount and rather outrightly refused to pay back the amount advanced to her which led to serious depression to Asha Rani. Asha Rani could not bear this torture and she committed suicide by consuming some poisonous substance. The case was registered and the matter was investigated. The suicide note executed by the deceased was recovered and accused Lata Sharma was arrested. However, accused Tarsem Kumar @ Pappu absconded and he was

declared proclaimed offender.

In the present case, after framing of charge when the prosecution evidence started, learned Addl. P.P. filed an application for summoning Harish Chander, a bank officer who was named in the suicide note as an additional accused.

The defence had opposed the said application moved by the prosecution on the ground that the suicide note is a forged one and in the absence of any evidence adduced during trial, prayer under Section 319, Cr.P.C. was not maintainable.

Learned counsel for the petitioner has confined his argument that he is not arguing on merits rather is only on the point of procedural error. He submits that provisions of Section 319, Cr.P.C. can be attracted after the prosecution evidence in the case starts and not after framing of the charge. Learned counsel for the petitioner contends that the answer to the aforesaid proposition is well settled in the case of '**Dharam Pal and others Vs. State of Haryana and another**', **2013 AIR (SC) 3018**. He submits that allowing application under Section 319, Cr.P.C. is contrary to Dharam Pal's case (supra).

In Dharam Pal's case (supra), the Hon'ble Apex Court has considered the views expressed in **Kishun Singh's case (supra)** to state that Session Courts has jurisdiction on committal of a case to it, to take cognizance of the offences of the persons not named as offenders but whose complicity in the case would be evident from the materials available on record.

In view of the aforesaid judgment, the order dated 20.1.2014 passed by learned Addl. Sessions Judge is set aside and the case is remanded back to the Addl. Sessions Court, Amritsar with liberty to the prosecution to file an application under Section 319, Cr.P.C.

The aforesaid order is being passed considering the fact that number of witnesses on behalf of the prosecution have already been examined.

Learned counsel for the complainant does not dispute the aforesaid proposition of law and its applicability in the facts and circumstances of the present case.

Accordingly, order dated 20.1.2014 passed by Addl. Sessions Court, Amritsar is set aside and learned Addl. Sessions Judge, Amritsar shall consider and decide the application on the available material before him in accordance with law.

Petition is disposed of.

[Hari Pal Verma]
Judge

14.07.2015
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