

110 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRIMINAL REVISION No. 935 of 2015  
DECIDED ON: March 17, 2015

NIRANJAN SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Jashandeep Singh Sandhu, Advocate  
for the petitioner.

JASPAL SINGH, J.

Instant revision petition has been preferred by Niranjana Singh, feeling dissatisfied against order dated December 20, 2014 passed by learned Additional Sessions Judge, Bathinda whereby, an application moved by prosecution under Section 319 Cr.P.C for summoning respondents No.2 and 3 to stand trial alongwith their co-accused Manjit Singh, in case bearing FIR No. 11 dated February 01, 2014 under Section 306 read with Section 34 IPC registered at Police Station Nehianwala, was dismissed.

Briefly stated the facts giving rise to the instant petition are that FIR in this case was registered on the basis of statement of Niranjana Singh-petitioner, in which, he has unfolded that his daughter Ms. Kirna was married to Manjit Singh-accused who is already facing trial. Though, she was living separately from her in-laws family yet the couple had a matrimonial dispute. In connection with the said dispute, he (petitioner) visited village Dan Singh Wala but with the intervention of Panchayat, dispute was set at rest. As a result whereof, Ms. Kirna started living in her matrimonial house. Manjit Singh as well

as his brother Ranjit Singh and Seema wife of Ranjit Singh used to harass his daughter and due to continuous harassment meted out to her by them, his daughter committed suicide.

During investigation of the case, respondents No.2 and 3 were found innocent and report under Section 173(2) Cr.P.C was only presented against Manjit Singh whereas, respondents No.2 and 3 were kept in column No.2 of the report.

Learned counsel for the petitioner contended that after examination of Niranjana Singh-petitioner, an application under Section 319 Cr.P.C. was moved to summon respondents No.2 and 3 to stand trial with Manjit Singh. That application was dismissed by learned trial Court by ignoring and disbelieving the sworn statement of Niranjana Singh-petitioner. While appearing in the witness box as PW-1, Niranjana Singh has categorically deposed on oath that respondents No.2 and 3 actually connived with the main accused-Manjit Singh and further that Manjit Singh husband of deceased was having illicit relations with respondent No.3, his sister-in-law which ultimately led to commission of suicide by his daughter. Thus, respondents No.2 and 3 are also equally liable for having abetted deceased to take the step to end her life. As such, impugned order is not sustainable in the eyes of law and is liable to be set aside whereby, an application moved under Section 319 Cr.P.C deserves to be accepted.

This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but found the same to be of no legal weight.

By now, it is pretty settled that while dealing with an application under Section 319 Cr.P.C, court should not summon a person as an additional accused and pass an order mechanically merely on the ground that some evidence had come on record showing implication of a person and further that

power envisaged under Section 319 Cr.P.C. is to be used sparingly only if there is convincing evidence against the person(s) sought to be summoned as an additional accused. To fortify this view, we can have reference of the pronouncement of Hon'ble Apex Court captioned as **Krishnappa vs. State of Karnataka; 2004 (4) RCR 679** as well as that of our own High Court titled as **Manoj Kumar vs. Prabhu Ram; 2003 (4) RCR 887.**

Recently in case **Hardeep Singh vs. State of Punjab and others; 2014 (3) SCC 92;** power envisaged under Section 319 Cr.P.C. was discussed at length. The relevant paragraphs of the above-referred judgment reads as under:

*“98. Power under Section 319 Cr.P.C. is a discretionary and an extra-ordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.*

*99. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of cross-examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C. the purpose of providing if 'it appears from the evidence that any person not being the accused has committed any offence' is clear from the words “ for which such person could be tried*

*together with the accused.” The words used are not ‘for which such person could be convicted.’ There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.”*

A perusal of the afore-said paragraphs discloses that power under Section 319 Cr.P.C. is to be exercised sparingly being discretionary and extraordinary and that too, in those cases where circumstances of the case so warrant. It has further been laid down that no doubt, only a *prima facie* case is to be established by the prosecution by way of evidence led before the court and the same is not required to be tested on the anvil of cross-examination, yet, it has also been observed that it requires much stronger evidence than mere probability of the complicity of a person to be summoned as an additional accused. The test that has to be applied is one which is more *prima facie* case as exercised at the time of framing of charge but short of satisfaction to an extent that the evidence, if left unrebutted would lead to conviction. Therefore, mere statement of Niranjana Singh-PW-1 which can be termed to be an improved version is not sufficient to summon respondents No.2 and 3 as an additional accused.

Here, it would not be out of place to mention that in FIR there was no allegation levelled by Niranjana Singh-PW-1 that Manjit Singh husband of the deceased was having illicit relations with respondent No.3 wife of his brother Ranjit Singh. This version was unfolded by him for the first time when he appeared in the witness box as PW-1. So, in such a situation, much reliance cannot be placed upon his testimony at this stage, so far as it relates to respondents No.2 and 3. It can be safely concluded that there is no evidence warranting the summoning of respondents No.2 and 3 as an additional accused.

As an up-shot of the aforesaid discussions, this Court does not find any merit in the instant revision petition. As such, the same is dismissed

whereby impugned order is upheld.

However, it is also made clear that any observation made by this Court shall have no binding effect on merits of the case and shall remain limited to the disposal of instant case.

**March 17, 2015**  
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**(JASPAL SINGH)**  
**JUDGE**