

*

Date of Decision: February 05, 2015

+

DHARAMVEER SINGH Petitioner

Through: Mr. Sushil Bajaj, Advocate

versus

STATE GOVT. OF NCT OF DELHI Respondent

Through: Mr.Navin Sharma, Additional
Public Prosecutor for respondent-
State

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
05.02.2015

%

Trial of FIR No.267/1994 registered at Police Station Adarsh Nagar, Delhi against Beer Singh for the offence under Section 365 IPC was at the fag end, when respondent-State had filed an application under Section 319 Cr.P.C. for summoning petitioner, *Shanti Devi* and *Raghubir Singh* as co-accused and the said application was allowed by the trial court by order of 3rd October, 2008.

Aforesaid order was challenged by way of a criminal revision petition by petitioner and *Shanti Devi* only because by then *Raghubir Singh* had expired. Petitioner's revision petition

stands dismissed vide impugned order of 13th December, 2011 by holding that petitioner has been rightly summoned. In the impugned order, there is reference to the deposition of *Kishney* (PW-2), *Ramniwas* (PW-3), *Ramphal* (PW-4), *Ramgopal* (PW-5) and *Sunil Kumar* (PW-6) to justify summoning of petitioner as additional accused.

At the hearing, learned counsel for petitioner had taken this Court to the copies of deposition of aforesaid witnesses, which have been certified by him to be true copies and it was pointed out that deposition of these witnesses do not justify summoning of petitioner as an accused for the offence under Sections 364/302/34 IPC. Thus, quashing of impugned orders is sought in this petition.

Mr. Navin Sharma, learned Additional Public Prosecutor for respondent-State points out that it has come in the deposition of *Sunil Kumar* (PW-6) that petitioner was a party to wrapping the deceased in a cloth and putting the deceased in a gypsy and so offence under Section 201 IPC is *prima facie* made out.

Upon hearing and on perusal of the impugned orders and copies of deposition of the aforesaid witnesses, I find that summoning of petitioner as an accused for the offence under Sections 364/302/34 IPC is wholly unjustified. However, in view of deposition of *Sunil Kumar* (PW-6), a *prima facie* case is made out for summoning petitioner as an accused for the offence under Sections 201/34 of IPC and only *Sunil Kumar* (PW-6) needs to be recalled after framing of the charge.

Let it be so done.

Impugned orders are hereby quashed while clarifying that petitioner shall now be summoned for the offence under Sections 201/34 IPC only.

With aforesaid directions, this petition and the application are disposed of.

(SUNIL GAUR)
JUDGE

FEBRUARY 05, 2015
vn