

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-13192 of 2016(O&M)

Date of decision : 22.04.2016

Naresh Kumar

... Petitioner

versus

State of Haryana & Ors.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Abhishek Arora, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

The petitioner seeks quashing of the order dated 03.11.2015 passed by Addl. Sessions Judge, Fatehabad whereby the application filed by the petitioner under Section 319 Cr.P.C for summoning the additional accused had been dismissed.

It is necessary to give few facts which led to the registration of the FIR. A complaint was lodged by Naresh Kumar. His two sisters namely Raj Rani and Shakuntla were married in one family with Gurdayal Singh and Vasudev, respectively. Shakuntla had died 20 years ago. Raj Rani had three children. Her two daughters were married. The youngest child was 12 years old. The complainant had disclosed that after the death of Shakuntla, Raj Rani was looking after the whole family. Monti son of Vasudev was married. Allegations levelled were that Monti and his wife Jyoti and Vasudev had been quarreling with Raj Rani for the last 2-3 days and Rajesh was also helping them. Raj Rani was feeling harassed and tortured and on that account she committed suicide by jumping into the Bhakhra Canal, Sirsa Branch. The police investigated the case and filed the challan only

against Harpreet Kaur @ Jyoti.

The trial had started and the prosecution had examined Naresh Kumar. Thereafter an application was moved by the complainant for summoning Monti, Rajesh and Vasudev as additional accused. The trial Court dismissed the application.

Para 8 of the order reads as under:

“Bald statement of witness Naresh Kumar that Monty, Vasudev and Rajesh harassed his sister under influence of liquor, thrashed and beat her is not sufficient to invoke the power under Section 319 CrPC. PW Naresh Kumar is resident of Mansa (Punjab) and his version before the court, bereft of essential particulars, is based on hearsay. The evidence against Monti, Vasudev and Rajesh is not strong and cogent enough and the test laid down in Hardeep Singh's (supra) case is not satisfied. The court is not convinced that names of Monti, Vasudev and Rajesh have erroneously been omitted or deliberately been excluded by investigating agency. There is no sufficient ground to summon Monti, Vasudev and Rajesh as additional accused. Therefore, the prayer under Section 319 CrPC is declined”.

I have heard counsel for the petitioner.

A reading of the complaint (Annexure P-1) shows that the only allegation levelled against Naresh were that Monti and Vasudev had been quarreling with Raj Rani for the last 2-3 days. Against Rajesh the allegations were that he had been helping the persons named by the complainant. At the trial Naresh had stated that Monti and his father Vasudev and Rajesh used to harass his sister under the influence of liquor.

He had also stated that they used to take liquor together and troubled her sister and she felt harassed and she was forced to commit suicide. The trial Court concluded that the allegations alone were not sufficient nor any additional material has been brought before the Court and the evidence against the persons named in the FIR were not sufficient or cogent enough and did not satisfy the test laid down in ***Hardeep Singh vs. State of Punjab and others, 2014(1) RCR(Criminal) 623***

There is no reason to differ with a view taken by the trial Court. In order to summon the additional accused and to invoke the power under Section 319 Cr.P.C., there has to be much stronger evidence than mere probability. It is missing in this case. I find no infirmity in the order passed.

The petition is dismissed in limine.

April 22, 2016

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**(ANITA CHAUDHARY)
JUDGE**