

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

**CRR No.1097 of 2015 (O&M)
Date of decision: 20.12.2016**

Indu Rani and others

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Krishan Sehajpal, Advocate,
for the petitioners.

Mr. K.D. Sachdeva, Addl. A.G., Punjab.

Mr. Vipin Sharma, Advocate,
for Mr. B.R. Rana, Advocate,
for the complainant.

Ritu Bahri, J.

CRM No.10152 of 2015

For the reasons mentioned in the application, same is allowed and
delay of 75 days in filing of the petition is condoned.

CRR No.1097 of 2015

This petition has been filed against the order dated 10.10.2014
passed by the Additional Sessions Judge, Rupnagar, whereby application
filed by the prosecution under Section 319 Cr.P.C. has been allowed and the
petitioners have been summoned to face trial under Section 304-B read with
Section 120-B IPC as additional accused.

In the present case, FIR No.211 dated 28.09.2013, under Section

304-B read with Section 120-B IPC was registered at Police Station, Kurali on the basis of statement made by Dharampal-complainant to the effect that marriage of his daughter-Sangeeta Devi was solemnized with Nainu Kumar on 01.10.2006 at Dhariwal Palace, Morinda. Soon after the marriage, in-laws of Sangeeta started harassing and humiliating her on the pretext of bringing insufficient dowry. On many occasions, they gave beatings to her. On 28.09.2013, Bimal Kumar son of Om Parkash, resident of Kurali, informed the complainant that his daughter Sangeeta had been killed by her husband Nainu Kumar and mother-in-law Somti Devi for not bringing Rs.2,00,000/- from her parents. Thereafter, the complainant along with some other persons visited the matrimonial house of her daughter and found that her dead body was lying in the upper porch. In this background, the FIR was registered. After completion of investigation, Pinky Rani, Manju Rani, Neelam Rani, Indu Rani and Neeraj Rani were declared innocent and were kept in column No.2 of the report under Section 173 Cr.P.C.

During the pendency of trial, Dharampal appeared as PW-1 and made allegations against the above said accused-petitioners. He had stated that all the accused had physically and mentally tortured his daughter Sangeeta (since deceased). Thereafter, the prosecution moved an application under Section 319 Cr.P.C. to summon the petitioners as additional accused. This application was allowed vide impugned order dated 10.10.2014.

While considering the aforesaid application, the trial Court has observed that statements made by Vimal Kumar and Mehma Singh before the police under Section 161 Cr.P.C., had disclosed that the deceased had been tortured by the above said accused-petitioners, but the same had been

ignored by the investigating agency at the time of presentation of the challan. Apart from misusing the dowry articles given by the parents of deceased, there was a demand of more dowry. Rs.2,00,000/- were demanded from the deceased and her father (complainant). When their demand was not fulfilled, it led to the death of Sangeeta daughter of the complainant.

Learned counsel for the petitioners has argued that Indu Rani- petitioner No.1 is widow and is residing in Kaithal (Haryana). She has two children i.e. one daughter and one son (aged 12 & 14 years respectively). Her marriage was solemnized in December, 1999 i.e. prior to the marriage of deceased-Sangeeta. Similarly, petitioner No.2-Neelam Rani was got married in 1999. She is having two school going children aged about 08 and 14 years. Since marriage, she is residing in her matrimonial house at Mansa. Petitioner No.3-Neeraj Rani was married in 2003 and at present she is living in her matrimonial house at Bassi Pathana, District Fatehgarh Sahib. She is also mother of two school going children, aged about 08 and 11 years. They never interfered in the matrimonial life of their brother Nainu Kumar and deceased sister-in-law Sangeeta Devi. Allegations against these petitioners are general in nature and they were rightly kept in column No.2 of the report under Section 173 Cr.P.C. There is no specific allegation that they had demanded Rs.2,00,000/- from the deceased.

Learned State counsel as well as learned counsel for the complainant have not been able to dispute the fact that marriages of the petitioners had been solemnized way back in 1999 & 2003 and they are residing at distant place(s) from the matrimonial house of the deceased.

The question for consideration in this case would be, 'whether on

account of oral deposition of Dharampal (PW-1), the present petitioners could be summoned as additional accused to face trial pursuant to an application under Section 319 Cr.P.C.'

No doubt, in the present case, marriage of deceased-Sangeeta was solemnized on 01.10.2006. As per allegations in the FIR, complainant had spent sufficient amount at the time of marriage. There is a general allegation that demand of Rs.2,00,000/- was made by husband, mother-in-law and sisters-in-law of the deceased for purchase of a plot. This demand led to a conflict with complainant's daughter and thereafter, she was given beatings. Many a times, attempts were made to rehabilitate Sangeeta with the help of Shiv Charan, Lamberdar. After investigation, petitioners were kept in column No.2 of the challan as they were found innocent. As per enquiry report dated 11.11.2013 (Annexure P-2), petitioner No.1-Indu Rani has to look after her children as her husband had died in the year 2010. She used to visit her parental house once in a year along with her children. She was not having any knowledge about demand of dowry from Sangeeta. Petitioner No.2-Neelam Rani had rarely visited the house of her parents. She was not having any knowledge with regard to demand of dowry and conflict with her sister-in-law Sangeeta. Similarly, petitioner No.3-Neeraj was not in the knowledge of any conflict of his brother with the deceased, as she occasionally visited her parental house.

The impugned order has been passed on the basis of oral testimony of complainant-Dharampal (PW-1). His statement has also been annexed with this petition as Annexure P-1, a perusal of which shows that he has reiterated the version recorded in the FIR and stated that after two years of marriage of his daughter, her in-laws i.e. husband Nainu Kumar,

mother-in-law Somti Devi and sisters-in-law namely, Pinky, Manju, Neelam, Indu and Neeraj had made a demand of Rs.2,00,000/-. This allegation is general in nature. The trial Court, while passing the impugned order has not taken into consideration the enquiry report (AnnexureP-2). While allowing an application under Section 319 Cr.P.C. after presentation of challan, there has to be more than *prima facie* evidence to summon the accused to face a criminal trial. In the present case, apart from general allegations, there was no other evidence with the prosecution, which could be made basis for summoning the present petitioners to face trial.

Accordingly, this petition is allowed and the impugned order dated 10.10.2014 passed by the Additional Sessions Judge, Rupnagar is set aside.

20.12.2016
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*