

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

**Crl. Revn No. 2758 of 2015
Date of decision : 10.11.2016**

Devi RamPetitioner
versus

State of Haryana and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. N.S. Shekhawat, Advocate
for the petitioner.

Mr. D.R. Singla, DAG, Haryana

Mr. Rakesh Nehra, Advocate
for respondent Nos. 2 and 3.

Mr. Surya Kant Gautam, Advocate
for respondent No. 4

RITU BAHRI, J.

The present petition has been preferred against the order dated 01.07.2015 passed by the Court of learned Additional Sessions Judge, Jind whereby application under Section 319 Cr.P.C filed by the prosecution for summoning respondent Nos. 2 to 4 was ordered to be dismissed.

F.I.R has been registered on the statement made by the complainant/petitioner under Sections 498-A/304-B/34 IPC alleging that the marriage of daughter of the petitioner namely Anju (since deceased) was solemnized with Pramod on 20.11.2013 and after marriage, respondent Nos. 2 to 4 started torturing Anju physically and mentally and even panchayats were held 2/3 times and Anju was sent back to her matrimonial home but

inspite of this, the respondents did not mend their ways. 15/20 days prior to the occurrence, Anju was beaten up by respondent Nos. 2 to 4 and Parmod and was sent back to her parental house. Thereafter, talks were held between the parties and it was stated that the accused will take back Anju on 10.08.2014 but on 10.08.2014 Parmod did not come to take back Anjau and due to this, Anju committed suicide by taking some poisonous substance. Respondent Nos. 2 to 4 were kept in column No. 2 and hence, an application under Section 319 Cr.P.C was filed, which was dismissed.

A bare persual of order dated 01.07.2015 shows that the Court below has held that the complainant while appearing as P.W.7 has made improvement in his statement and deposed that all the accused demanded two gold chains, one car and Rs.2 lacs in cash from his daughter. Further sister of accused-Pramod was married with Lalit Kaushik on 19.04.2000 and since then she is residing in her matrimonial home and posted as Assistant Professor since the year 2008 at Rohtak, which is evident from the ration card of the husband of Vineet Bala and the appointment letter. Besides this, there are only general allegations against the accused sought to be summoned by the complainant and there are no specific detail or time as to when the demand or harassment was made.

Learned counsel for the petitioner contends that there were specific and serious allegations against respondent Nos. 2 to 4 and thus, they were wrongly kept in column No. 2. Further the learned lower Court below has wrongly observed that only general allegations have been levelled against respondent Nos. 2 to 4.

Reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of Jogendra Yadav & Ors. v. State of Bihar & Anr., 2015(3) RCR Crl 935 wherein in para 12, it has been observed as under:-

*12. We are not unmindful of the fact that the interpretation placed by us on the scheme of Sections 319 and 227 makes Section 227 unavailable to an accused who has been added under Section 319 of the Cr.P.C. We are of the view, for the reasons given above that this must necessarily be so since a view to the contrary would render the exercise undertaken by a Court under Section 319 of the Cr.P.C., for summoning an accused, on the basis of a higher standard of proof totally infructuous and futile if the same court were to subsequently discharge the same accused by exercise of the power under Section 227 of the Cr.P.C., on the basis of a mere prima facie view. The exercise of the power under Section 319 of the Cr.P.C., must be placed on a higher pedestal. Needless to say the accused summoned under Section 319 of the Cr.P.C., are entitled to invoke remedy under law against an illegal or improper exercise of the power under Section 319, but cannot have the effect of the order undone by seeking a discharge under Section 227 of the Cr.P.C. If allowed to, such an action of discharge would not be in accordance with the purpose of the Cr.P.C in enacting Section 319 which empowers the Court to summon a person for being tried along with the other accused where it appears from the evidence that he has committed an offence. It would be apposite to refer to the principle of purposive construction of a statute invoked by this Court in **New India Assurance Co. Ltd. v. Nusli Neville Wadia and Anr. 2008(1) R.C.R.(Civil) 875 : 2008(1) R.C.R. (Rent) 208 : 2008(1) Recent Apex Judgments (R.A.J.) 458 : (2008) 3 SCC 279**, which is as under:*

"51..... With a view to read the provisions of the Act in a proper and effective manner, we are of the opinion that literal interpretation, if given, may give rise to an anomaly or absurdity which must be avoided. So as to enable a superior court to interpret a statute in a reasonable manner, the court must place itself in the chair of a reasonable legislator/author. So done, the rules of purposive construction have to be resorted to which would require the construction of the Act in such a manner so as to see that the object of the Act is fulfilled, which in turn would lead the beneficiary under the statutory scheme to fulfil its constitutional obligations as held by the Court inter alia in Ashoka Marketing Ltd.

52. Barak in his exhaustive work on "Purposive Construction" explains various meanings attributed to the term "purpose". It would be in the fitness of discussion to refer to Purposive Construction in Barak's words:

"Hart and Sachs also appear to treat 'purpose' as a subjective concept. I say 'appear' because, although Hart and Sachs claim that the interpreter should imagine himself or herself in the legislator's shoes, they introduce two elements of objectivity: First, the interpreter should assume that the legislature is composed of reasonable people seeking to achieve reasonable goals in a reasonable manner; and second, the interpreter should accept the non-rebuttable presumption that members of the legislative body sought to fulfil their constitutional duties in good faith. This formulation allows the interpreter to inquire not into the subjective intent of the author, but rather the intent the author would have had, had he or she acted reasonably."

Learned State counsel has shown the inquiry report dated 21.08.2014 which shows that sister-in-law of the deceased was married in the year 2000 with Lalit and was residing in Rohtak. She is having three children. She is working as Assistant Professor at Vaish College, Rohtak. She came to attend the marriage of her brother Pramod in November, 2013 and after 2-3 days of marriage, a dispute was raised between Parmod, Babli and Lalit and thereafter, Babli never visited at her parental house. After that Ram Kishan and Satwanti resided separately from their son Parmod in another house. Parmod was resided with his wife.

So the above said enquiry report shows that respondent Nos. 2 to 4 have no major role to play and the dispute was between Parmod and

Anju and thus, respondent Nos. 2 have rightly been kept in column No. 2.

Even as per MLR (P-2), no apparent mark was found on the part of the body of the deceased.

All the above said evidence were sufficient enough to dismiss the application under Section 319 Cr.P.C, as Hon'ble the Supreme Court has consistently held that the evidence should be more than prima facie evidence, if the additional accused are to be summoned.

Accordingly, the revision petition stands dismissed.

10.11.2016
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>