

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

CRR-2750-2016 (O&M)

Date of Decision:- 05.12.2016

Jaipal

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. R.A. Sheoran, Advocate
for the petitioner.**

Mr. D.K. Singla, DAG, Haryana.

**Mr. Prabhjeet Singh Sullar, Advocate
for respondent Nos.2 and 3.**

RITU BAHRI, J. (Oral)

Present petition is against order dated 21.07.2016, passed by Additional Sessions Judge (Exclusive Court) Bhiwani, whereby application under Section 319 Cr.P.C. moved by the petitioner to summon Rajpati and Sonika (respondent Nos.2 and 3), as additional accused has been dismissed.

The FIR was registered on the statement made by Jaipal son of Lalji Ram Punia with the allegations that he had married his daughter Pankaj with Amit about three months ago. After the marriage, she was being harassed for bringing less dowry. She was beaten several times and was

maltreated in her matrimonial house. Her in-laws were ill-treating her and compelling her to fulfill dowry demands in the form of car and other articles. Her husband Amit, parents-in-law Jai Singh and Rajpati as well as sister-in-law (*Nanad*) Sonika were involved in causing harassment to her. On 28.03.2016 at about 5.45 p.m., the complainant was informed on his mobile No.80598-61057 by Uday Bhan son of Jai Ram resident of Dhani Jhanjara from mobile No.80913-26388 that they had to go to Dadri immediately as something had happened to Pankaj. They reached Government Hospital Dadri and he found his daughter dead and the police had already arrived in the hospital. They noticed that some plastic was pressed into her mouth. His daughter had been killed by her in-laws out of greed of more dowry.

After registration of the FIR, the investigation was carried out and accused Rajpati and Sonika were found innocent while accused Amit and Jai Singh have been challaned. Jaipal, father of deceased, who has appeared as PW1, has reiterated his version while appearing in the Court. Then, the application under Section 319, to summon Rajpati and Sonika was made. The trial Court has examined the deposition of Jaipal (PW1), in which, he deposed that mother-in-law Rajpati told him that they had given a car and jewellery in the marriage of their daughter Sonika, whereas, he had not given to her car and jewellery in the marriage of Pankaj with Amit. On 18.03.2016, when he had taken his daughter with him from the house of the accused, at that time also Rajpati and Sonika had asked him to give car and jewellery. On 25.03.2016, a telephonic message was received by Pankaj from Sonika, for sending Pankaj back to her matrimonial home. Thereafter,

mentioned by the complainant in his application Exh.PW1/1, which he had handed over to the police. While examining the contents of the application, it was stated in that application that in-laws of deceased used to pressurize her to bring car and other dowry articles, which was settled at the time of fixing the marriage but while appearing as PW1 he had said that mother-in-law Rajpati taunted him by stating that they had given a car and jewellery in the marriage of their daughter Sonika, whereas, he had not given car and jewellery in the marriage of Pankaj with Amit and this fact was not recorded in his initial application. Further, on 18.03.2016 he had taken his daughter from the house of the accused and even at that stage Rajpati and Sonika had asked him to give car and jewellery, however, in application Exh.PW1/A he stated that on 25.03.2016 i.e. three days before the date of death, Sonika, sister-in-law had made a telephone call to Pankaj at his house that she should come back to her matrimonial house. Thereafter, he had sent her daughter with Amit. While appearing as PW1 on 18.03.2016 he deposed that Rajpati and Sonika had taunted him for not giving car and jewellery was held to be improvement. Moreover, the marriage of Sonika had been solemnized prior to the marriage of the deceased. Learned defence counsel placed on record photocopies of Air Plane booking of Sonika according to which she left Delhi for Kolkata on 25.12.2015 and came back from Kolkata to Delhi on 28.03.2016 and it is not possible that she would have visited Dadri again and again to harass sister-in-law. Once the presence of Sonika in the matrimonial house of the deceased was not probable after 25.12.2015 till 28.03.2016, the version of the complainant became doubtful. The version of PW1 was to implicate mother-in-law Rajpati and sister-in-law Sonika to show their presence in the house on the date of the death.

Moreover, demand of car would not have benefited to Rajpati and Sonika as they would not have gained anything and it is only the husband and father-in-law, who would have benefited. Jaipal has improved his version while appearing as PW1 and keeping in view the dates of airplane bookings, the presence of Sonika has rightly to be held in doubt in matrimonial house of the deceased. The application under Section 319 Cr.P.C. has been rightly dismissed.

Learned counsel for the respondent has informed that a revision filed against this order for summoning Sonika has already been dismissed by this Court. Learned counsel for the petitioner is not able to dispute this fact.

Keeping in view the allegations of demand of dowry and harassment were similar to Rajpati and Sonika, while presentation of the challan, they were both kept in column-II and on account of the same evidence, if Sonika had not been summoned to face the trial, then application under Section 319 Cr.P.C. to summon Rajpati has rightly been dismissed by the trial Court. Thus, the learned Additional Sessions Judge (Exclusive Court), Bhiwani, has examined the matter in right perspective, recorded the cogent grounds and correctly dismissed the application filed by the prosecution. Such order, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited revisional jurisdiction of this Court under Sections 401 Cr.P.C., unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned order deserves to be and is hereby maintained in the obtaining circumstances of the case.

In the light of aforesaid reasons, as there is no merit, therefore,
the instant revision petition is hereby dismissed as such.

December 05, 2016
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No