

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

**CRR No.871 of 2015 (O&M)
Date of decision: 20.12.2016**

Pinky and another

.....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.7916 of 2015

For the reasons mentioned in the application, same is allowed and
delay of 56 days in filing of the petition is condoned.

CRR No.871 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. After about two years of 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 (present petitioners), 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 Pinky-petitioner No.1 is married sister-in-law of deceased-Sangeeta and her marriage was solemnized in the year 1996. Out of this wedlock, she has two children i.e. one son and one daughter (aged 18 & 17 years respectively). She is residing in her matrimonial house in District Patiala. Similarly, petitioner No.2-Manju Rani was got married in 1992 and she is having two sons (aged 22 & 21 years) out of this marriage. She is also living separately in her matrimonial house at Chandigarh. 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 1992 & 1996 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 (AnnexureP-2), petitioner No.1-Pinky had visited the house of her parents at Kurali at the time of marriage of her brother Nainu Kumar and thereafter in the month of July. She was not in the knowledge of any conflict of his brother. As per statement made by Manju Rani-petitioner No.2, she had visited the house of her parents after about six months of the death of Satpal. Thereafter, she never 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 (Annexure P-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 the 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*