

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

CRR-4750-2016

Date of Decision : 21.12.2016

Karamjit

.....Petitioner

Versus

Rajesh & others

.....Respondents

Present : Mr. Navneet Singh, Advocate,
for the petitioner.

JAISHREE THAKUR, J.(ORAL)

1. In the instant revision petition challenge is to the order dated 13.10.2016 passed by learned Addl. Sessions Judge, Sonapat, by which the application filed under Section 319 Cr.P.C. for summoning Banshi son of Laxman and Rajesh wife of Banshi as additional accused, has been declined.

2. In brief, facts of the case are that FIR dated 01.02.2016 was got registered by Karamjit Singh son of Mahabir that his sister Babita got married with Pawan son of Laxman and out of this wedlock one daughter was born. It was alleged that his sister Babita (since deceased) was tortured by her husband Pawan, further alleging that sister-in-law of the husband of the complainant also named Babita troubled his sister (now deceased). Though there were allegations against Banshi and Rajesh, after investigation only Pawan husband of the deceased and his sister-in-law (Bhabi) Babita were summoned to face trial.

3. An application under Section 319 Cr.P.C. was filed by the complainant for summoning Banshi s/o Laxman and Rajesh wife of Banshi as additional accused by contending that these two persons also used to torture

and harass his sister Babita and that these facts have been stated before the police, who did not record his statement.

4. Learned Addl. Sessions Judge, after hearing the learned counsel for the parties came to the conclusion that in the complaint there was no specific averment as to the role of Banshi and Rajesh, the two persons sought to be summoned as additional accused. It was noted that during investigation both Banshi and Rajesh were found innocent and no new evidence has come on record during examination-in-chief of the complainant to summon Banshi and Rajesh as additional accused. By relying upon a judgment rendered in ***Hardeep Singh Vs. State of Punjab & Ors.***, **2014(3) SCC 92**, learned Addl. Sessions Judge, Sonapat dismissed the application filed under Section 319 Cr.PC.

5. I have heard learned counsel for the petitioner and have also perused the case file.

6. Learned Addl. Sessions Judge, Sonapat after appreciating the evidence has come to the conclusion that nothing new has come on the record during the examination-in-chief of the complainant to summon Banshi and Rajesh as additional accused. It is true that under Section 319 Cr.P.C. the Court has wide powers to issue process and summon persons to face trial. However, there has to be strong and cogent evidence against a person from the evidence led before the Court before such power can be exercised. The Hon'ble Apex Court in ***Hardeep Singh's*** case (supra) deliberated on the issue on the powers under Section 319 Cr.P.C. and came to hold that :
“though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of cross-examination, it

requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction.”

7. In the instant case, no evidence is forthcoming as to in what manner the proposed accused caused harassment to the sister of the complainant. No role has been attributed to them and in what manner they had abated the deceased to commit suicide, other than a bald statement in the complaint. Since no new evidence has come on the record during the examination-in-chief, learned Addl. Sessions Judge, Sonapat rightly came to the conclusion that the application filed under Section 319 Cr.P.C. should not be allowed.

8. Finding no infirmity in the order passed by the learned trial Court, the instant petition is dismissed.

(JAISHREE THAKUR)
JUDGE

21.12.2016
SP

Whether speaking/reasoned
Whether reportable

Yes
No.