

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

CRR No.735 of 2016

Date of decision: 6th May, 2016

Bimla and another

... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Namit Sharma, Advocate
for the petitioners.

FATEH DEEP SINGH, J.

In a trial that got initiated by virtue of FIR No.309 dated 12.06.2014 under Section 306 read with Section 34 IPC registered at Police Station Samalkha on the complaint of Raj Bala respondent No.2 in this petition wherein allegations were levelled by the complainant that her son Shiv Kumar deceased had committed suicide on account of instigation, harassment and cruelty by his wife Poonam, her mother Bimla and brother-in-law Pawan, latter both petitioners herein. During the course of investigations, the police had laid hands on the written suicide note left behind by the deceased, however, both the present petitioners were placed in column No.2. It was on the testimony of Raj Bala as PW2 and on application moved by the complainant before the trial Court of learned Sessions Judge, Panipat the petitioners were

summoned with the aid of Section 319 Cr.P.C. The same has been challenged before this Court.

Heard Mr. Namit Sharma, Advocate for the petitioners and perused the records of the case.

Appreciating the arguments of learned counsel for the petitioners. Raj Bala in her initial stand taken before the police which forms the gist of the FIR, wherein she has levelled allegations against Poonam the widow of her deceased son, her brother Pawan and mother Bimla Devi to be the persons who instigated the deceased to commit suicide. Though the police during the investigations have found these accused/present petitioners to be innocent and therefore were placed in column No.2, however subsequent on recording of evidence of the complainant Raj Bala as PW2 she has reiterated her allegations against three accused Poonam the widow, her brother Pawan and mother Bimla Devi. As has been elicited in the evidence, there have been categorical averments against the petitioners wherein specific role has been attributed to them for having instigated the deceased to commit suicide. The learned trial Court on the basis of the previous stand of the complainant and going through the evidence of the complainant before it as PW2, has drawn the conclusion that there was definite evidence of complicity of these persons so sought to be summoned by the exercise of powers under Section 319 Cr.P.C. in commission of the offence. Learned counsel for the petitioners could not bring forth in his

submissions how there has been wrong exercise of powers by the trial Court contrary to law laid down in '**Hardeep Singh v. State of Punjab and others**' reported in 2014(1) RCR (Criminal) 623 when the plain reading of the provisions of Section 319 Cr.P.C. makes it emphatically clear that where in the course of an enquiry or trial it appears to the Court that any person who is not an accused before it, has committed any offence, who could be tried with the accused already facing trial and the Court is well within its powers to exercise these provisions under Section 319 Cr.P.C. Since the inception of complaint, there are allegations against the petitioners and which have been reiterated before the trial Court by the complainant. The learned Court below has come to the conclusion that there was prima facie evidence that these persons too have committed such an offence and thus, can be tried together. Since the satisfaction has arisen during the course of trial and therefore, there has been correct exercise of these powers by the learned trial Court. There being no illegality or impropriety apparent on the face of the records and the revision being totally devoid of any merits stands dismissed in limine. Records be sent back.

(FATEH DEEP SINGH)
JUDGE

May 6, 2016
rps

Whether to be referred to the Reporters or not?