

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

CRR-3068-2014 (O&M)

Date of Decision:- 20.02.2017

Sarabjit Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. R.K. Handa, Advocate
for the petitioner.**

Ms. Manpreet Dhaliwal, AAG, Punjab.

**Mr. Narinder S. Lucky, Advocate
for respondent No.2.**

RITU BAHRI, J. (Oral)

Present revision is against order dated 07.06.2014, passed by learned Additional Sessions Judge, SAS Nagar, Mohali, whereby the petitioner has been summoned on an application under Section 319 Cr.P.C. in case FIR No.149 dated 18.08.2013, under Sections 304-B, 302 and 498-A IPC, registered at Police Station Lalru.

Vide judgment dated 06.02.2015, passed by the Additional Sessions Judge, SAS Nagar, Mohali, accused-Jagtar Singh has been acquitted while facing a trial under Sections 304-B, 302 and 498-A IPC.

The case of the prosecution was that on 18.08.2013, Gurmit

Kaur mother of deceased Sarabjit Kaur, reported to the police that her husband Hans Raj is a truck driver. Her daughter Sarabjit Kaur was married with Jagtar Singh @ Jagga on 23.12.2012 and after one month of the marriage, her daughter told her that she was being harassed by her husband and in-laws for bringing less dowry. On 16.08.2013, she visited her with gifts to celebrate festival of 'Teez', which included one mobile phone. At that time, Sarabjit Kaur insisted that she may be taken out otherwise her in-laws will kill her. After about two months, Sarabjit Kaur told her that her mother-in-law Jaswinder Kaur, her husband Jagtar Singh and their cousin brother Sarabjit Singh were asking ₹1 lac to purchase bed, sofa set and other household articles. Thereafter, she approached Baldev Singh to borrow ₹1 lac from him and he assured to lend the money after 2-3 months. Her daughter Sarabjit Kaur was pregnant for eight months. She received telephonic call from Kulwinder Singh, who informed that condition of Sarabjit Kaur was precarious. She along with member panchayat Baldev Singh and her *devar* Jarnail Singh and other relatives reached the said village where she found dead body of Sarabjit Kaur hanging from iron rod from the ceiling of her room. Her daughter was killed by the accused though she was pregnant by 7-8 months at that time.

After registration of the FIR, the challan has been presented, charges were framed under Sections 304-B, 302, 498-A and 316 IPC against the accused on 24.04.2014. In the trial Court, the complainant was declared hostile and she did not support the prosecution version despite subjecting to a lengthy cross-examination. Prosecution had examined Hans Raj father of the deceased Sarabjit Kaur PW2, who stated that none of the accused ever

she killed herself. A similar statement has been made by brother Jaspal Singh (PW3) and a cousin brother Shingara Singh (PW11). During the course of investigation all the aforesaid witnesses had given their statements under Section 161 Cr.P.C. and had given a different version.

As per postmortem report (Ex.PW5/A), given by Dr. Sangeeta Jain (PW5), Sarabjit Kaur was carrying a full time pregnancy and cause of her death due to asphyxia.

Prosecution also examined Investigating officer SI Bharat Bhushan, ASI Baldev Singh, HC Gurpal Singh and a formal witness C Harbhajan Singh. Baljinder Singh Kamboz-PW7 appeared as draftsman.

Consequently, in the absence of any incriminating evidence available to connect accused Jagtar Singh with the alleged crime, he was acquitted after extending full benefit of doubt.

In the present case the petitioner has been summoned on an application made under Section 319 Cr.P.C., vide order dated 07.06.2014, by the Additional Sessions Judge, SAS Nagar, Mohali.

Learned counsel for the petitioner has referred to the statements of complainant Gurmit Kaur-PW1 (Annexure P-8), Hans Raj-PW2 (Annexure P-9) and Jaspal Singh son of Pritam Singh-PW-3 (Annexure P-10) where all the important prosecution witnesses had turned hostile. Their statements were recorded on 14.10.2014 i.e. after the impugned order summoning the petitioner has been passed. As per the above-said statements, no role has been attributed to the present petitioner of harassing deceased Sarabjit Kaur. Once accused Jagtar Singh has been acquitted, the petitioner should not be relegated to face the trial as there was no evidence

led to the prosecution which can lead to his conviction.

After hearing the learned counsel for the parties, going through the record, this Court of the considered view that in the present case a perusal of statement made by Gurmit Kaur (Annexure P-8) shows that she in her examination-in-chief has stated that accused Jagtar Singh and his co-accused (Sarabjit Singh, Jagdev Singh and Jaswinder Kaur since PO) had never harassed her daughter with a view to bring more dowry and also did not taunt her in this regard. She had got recorded her statement in the Court on 26.05.2014 on the asking of one police official. Her daughter was in depression and she strangulated with her *dupata*. She further stated that on 17.08.2013, neither she had gone along with member panchayat Baldev Singh to the village Badana in the house of her daughter Sarabjit Kaur nor her daughter was killed by the accused persons due to non-fulfillment of dowry demand.

Hans Raj-PW2, husband of complainant, in his statement (Annexure P-9) has reiterated the version given by his wife Gurmit Kaur and Jaspal Singh-PW3 (*chacha* of deceased Sarabjit Kaur), in his statement (Annexure P-10) has also narrated the same events.

As per the statements of above-said three witnesses, they have specifically denied the role of three accused persons that they had ever harassed the deceased Sarabjit Kaur. There was no other evidence which at this stage can be looked into and led against the accused. Once the main witnesses of the prosecution had turned hostile, there is no other evidence with the prosecution which can be led against the present petitioner, who are sought to have been summoned on an application under Section 319 Cr.P.C.

Accordingly, in view of above-said facts, the present revision petition is hereby allowed and impugned order dated 07.06.2014, passed by the learned Additional Sessions Judge, SAS Nagar Mohali, is hereby set aside.

February 20, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No