

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Criminal Revision No.2722 of 2016(O&M)

Date of Decision: February 20 , 2017.

Ramesh Kumar PETITIONER (s)

Versus

Jyoti and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Tapan Kumar Yadav, Advocate
for the petitioner.

LISA GILL, J.

This petition has been filed challenging order dated 01.07.2016 passed by the learned Special Judge, Rewari wherein application under Section 319 Cr.P.C. filed by the petitioner for summoning respondents No.1, 2 and 3 has been dismissed.

FIR No.139 dated 15.05.2015 under Sections 328/304B/34 IPC was registered on the death of Mamta daughter of the petitioner Ramesh Kumar (the complainant). Respondent No.1 – Jyoti and respondent No.2 – Pooja are the unmarried sisters-in-law (Nanad) of the deceased. Respondent No.3 – Pankaj is the brother-in-law (Devar) of the deceased. It is to be noticed that respondents No.2 and 3 are minors. Respondent No.1 is a student of B.A. (Final Year). In the investigation conducted by ASI Ram Kishan and DSP

Virender Singh, respondents No.1, 2 and 3 were found innocent and placed in Column No.2 of the police report under Section 173 Cr.P.C. The Challan/report under Section 173 Cr.P.C. was presented against co-accused Pardeep Kumar (husband of the deceased), Sushila (mother-in-law of the deceased) and Ashok Kumar (father-in-law of the deceased). After framing of charges against the said accused, evidence was led. PW1 Deepak Mathur, PW2 Head Constable Vinod Kumar, PW3 ASI Mangtu Ram, PW5 Dr. Ravinder Singh and PW6 Lady Constable Sargo Devi were examined. After the examination-in-Chief of PW4 Ramesh Kumar (complainant), an application under Section 319 Cr.P.C. was moved for summoning respondents No.1 to 3. It was averred that there are specific allegations in the complaint against them which were reiterated by PW4 Ramesh Kumar before the learned trial Court. Therefore, they should also be summoned to face trial. The learned trial court on considering the facts and circumstances of the case dismissed the said application finding no substance therein. Aggrieved therefrom, the present revision petition has been filed.

Learned counsel for the petitioner vehemently argues that it is specifically mentioned in the FIR as well as the statement of PW4 Ramesh Kumar that all the accused persons including respondents No.1 to 3 used to beat and harass the deceased on account of dowry. They were demanding a car and ₹5,00,000/-. The accused persons did not allow the deceased to talk to the complainant and other family members. In respect to respondent No.1, it is stated that when Ramesh Kumar telephonically called at the matrimonial home of the deceased on 14.05.2015 at about 8.00/8.30 a.m., the call was answered

by respondent No.1. PW4 Ramesh Kumar was informed by respondent No.1 that the deceased was having pain in her stomach and due to that she had been taken to the hospital. Thereafter, the petitioner reached Paras Hospital, Gurgaon and found his daughter lying dead. It was alleged that the accused persons had beaten the complainant's daughter and forcibly administered poison to her as their demand for dowry was not fulfilled. It is submitted that blood was oozing from the deceased's neck. It is thus prayed that order dated 01.07.2016 passed by the learned Special Judge, Rewari be set aside and respondents No.1, 2 and 3 be summoned as additional accused to face trial.

Having heard learned counsel for the petitioner at length and going through the file, I do not find any ground to interfere in the impugned order passed by the learned trial court. It has rightly been observed in the impugned order dated 01.07.2016 that there is a requirement of something more than mere probability of the complicity of the accused. The test to be applied before summoning any person as an accused on an application under Section 319 Cr.P.C. is one which is more than a prima facie case but short of satisfaction to the extent that evidence, if it goes unrebutted would lead to conviction. Respondents No.2 and 3 are admittedly the minor sister-in-law and brother-in-law of the deceased. Respondent No.1 is an unmarried sister-in-law of the deceased pursuing the final year of her Bachelors of Arts. It cannot be disputed that mere presence of the said persons on the spot when the deceased consumed poison does not ipso facto make them prima facie liable for the offence in question alongwith the other accused. In regard to the contention regarding beating given to the deceased and blood oozing from her

neck, it is relevant to note at this stage that no such injury was reflected in the post-mortem report which is attached as Annexure P3 with this petition. The statement of PW1 Dr. Deepak Mathur, who is one of the doctors who conducted the post-mortem has been perused in Court. At this stage, no ground is made out for summoning respondents No.1, 2 and 3 under Section 319 Cr.P.C.

Keeping in view the facts and circumstances of the case as noted above, I do not find any ground to interfere in the impugned order dated 01.07.2016 passed by the learned Special Judge, Rewari.

Accordingly, this petition is dismissed.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case and shall have no bearing on the trial.

February 20 , 2017.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No