

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

**CRR-4282-2016 (O&M)
Date of decision : 26.10.2017**

Devki and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Abhimanyu Kalsy, Advocate,
for Mr. Rakesh Dhiman, Advocate,
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

None for respondent No.2.

JITENDRA CHAUHAN, J.

The present revision petition is directed against order dated 20.09.2016, passed by learned Additional Sessions Judge, Rohtak, whereby, the application moved by the prosecution under Section 319 of the Code of Criminal Procedure was accepted and the accused-petitioners had been summoned to face trial.

It is contended that after registration of the instant FIR, the police conducted an investigation and finding no role of the accused-petitioners in the alleged crime, declared them innocent. Petitioner

No.2, Prithvi, had already ousted his sons, namely, Harish (husband of

deceased Pooja) and Ashok (husband of complainant Sunita) vide public notice dated 24.07.2012, published in a leading newspaper, i.e. much prior to the registration of the instant FIR. The petitioners had no role whatsoever in the matrimonial life of the complainant or her deceased sister.

On the other hand, learned State counsel has opposed the prayer made in the instant petition.

Heard.

The controversy regarding summoning under Section 319 Cr.P.C. has been settled by Hon'ble the apex Court in '**(2014) 3 SCC 92, Hardeep Singh Vs. State of Punjab and others**'. Their Lordships have held as under:-

“99. Thus, we 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 un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under [Section 319](#)

Cr.P.C. In Section 319 Cr.P.C. the purpose of providing if 'it appears from the evidence that any person not being the accused has committed any offence' is clear from the words "for which such person could be tried together with the accused." The words used are not 'for which such person could be convicted'. There is, therefore, no scope for the Court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused."

In the instant case, the complainant has specifically named and ascribed specific roles to each of the accused-petitioners sought to be summoned to face trial in her complaint moved before the police as well as in her statement recorded before the Court on 08.07.2015. She has alleged that the accused-petitioners inflicted injuries on her person and locked her in a room. She has further stated that while she was confined in the room, she could hear cries of her deceased sister till the time she was conscious. After regaining consciousness, she came to know that her sister, Pooja, had committed suicide by hanging herself.

In his statement, Dr. Vijay Pal Khanagwal, PW7, who conducted autopsy on the body of the deceased, has stated that besides ligature mark, the deceased had suffered about six superficial reddish abrasions, three contusions and one lacerated wound. PW10, Dr. Lalit has testified that on 09.04.2015, he medico-legally examined Sunita

and found two abrasions on her person besides pain in right thigh and abdomen. Thus, the version of the complainant finds corroboration from the medical evidence on record which is more than prima facie evidence against the accused/petitioners, sufficient to summon them to face trial.

In view of the above, this Court is of the considered opinion that the application under Section 319 Cr.P.C. has rightly been accepted by the Court below.

Dismissed.

26.10.2017
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No