

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

**Crl. Misc. No. 13458 of 2017 in
Crl. Misc No. 14692 of 2017 in/and
Crl. Revn No. 1421 of 2017
Date of decision : 03.05.2017**

Jagjit Kaur

....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Paramjit Batta, Advocate
for the applicant/petitioner.

RITU BAHRI, J.

Crl. Misc. No. 13458 of 2017

Application is allowed as prayed for.

Accordingly, Annexures P-2 to 4 are taken on record.

Crl. Misc No. 14692 of 2017

Application is allowed as prayed for.

Accordingly, Annexure P-5 is taken on record.

Crl. Revn No. 1421 of 2017

The present revision petition is directed against order dated 14.03.2017 whereby learned Judicial Magistrate 1st Class, Derabassi has dismissed the application for summoning the persons shown in column No. 2 in the report under Section 173(2) Cr.P.C as an additional accused to face the trial.

A bare perusal of statement of complainant-Jagjit Kaur (Annexure P-3) shows that the allegations against the in-laws family were

that they used to taunt her for bringing less dowry. The other allegation is against the husband of the complainant/petitioner who demanded Rs.40,000/- from the petitioner. The husband is already facing the trial.

In view of this statement, the investigation was carried out and the challan was filed in the Court and as per copy of the challan (Annexure P-5), the accused sought to be summoned were kept in column No. 2, as there was no evidence against them. The accused had not played the important role in committing the offences as alleged by the complainant. The complainant was unable to prove the allegations against the accused persons sought to be summoned.

After going through the statement and the copy of the challan, the application under Section 319 Cr.P.C for summoning the persons shown in column No. 2 in the report under Section 173(2) Cr.P.C as an additional accused to face the trial has rightly been dismissed, in the light of the guidelines laid down by Hon'ble the Supreme Court in a case of *Hon'ble the Supreme Court in a case of Hardeep Singh vs. State of Punjab, 2014(1) RCR (Criminal) 623* wherein Hon'ble the Supreme Court observed that the power under Section 319 Cr.P.C. can be exercised only on the basis of the evidence adduced before the court during a trial. So far as its application during the course of inquiry is concerned, it remains limited as referred to hereinabove, adding a person as an accused, whose name has been mentioned in Column 2 of the charge sheet or any other person who might be an accomplice.

*Section 319(1) Cr.P.C. empowers the court to proceed against other persons who **appear** to be guilty of offence, though not an accused*

before the court. The word “appear” means “clear to the comprehension”, or a phrase near to, if not synonymous with “proved”. It imparts a lesser degree of probability than proof. Fresh summoning of an accused will result in delay of the trial - therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.

In the present case, the victim has not given any time, date and place. She only stated that she was being taunted by her in-laws family member with regard to demand of dowry. The specific allegation was against the husband who is already facing the trial.

Taking into consideration the above facts and circumstances of the case, no ground is made out to interfere in the order dated 14.03.2017.

The petition stands dismissed.

03.05.2017

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No