

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

Crl. Revision No. 172 of 2017

Date of Decision : October 30, 2017

Kundanpreet Singh.....Petitioner

Versus

State of Punjab and another Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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Present: Ms. G.K.Mann, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Vipin Mahajan, Advocate
for respondent No.2.

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LISA GILL, J. (Oral)

The petitioner is aggrieved of order dated 17.10.2016 whereby application under Section 319 Cr.P.C. for summoning respondent No.2 (married sister-in-law) as well as other accused has been dismissed. It is submitted that respondent No.2 should have been summoned along with the parents-in-law of the deceased to face trial as additional accused.

Brief facts necessary for the adjudication of the petition are that FIR No. 66 dated 08.12.2015 under Sections 304-B, 120-B IPC was registered at Police Station Ghanie Ke Bangar on the basis of a statement of the complainant wherein it is stated that his sister was married with the accused Jagdeep Singh about two and a half years prior to the incident in question. They were blessed with a one and a half year old child. As per the allegations in the FIR the complainant's sister was harrassed and tortured on

account of bringing less dowry. She was asked to bring more dowry at the time of the birth of her son. Number of articles as per their status were given to the in-laws of the deceased but their greed increased and they started demanding a car from the deceased. It is further averred that the deceased was turned out of her in-laws family a number of times. The complainant's sister came to her parental home on 03.12.2015 and revealed that her in-laws were demanding a car and were not ready to allow her to live in the matrimonial home until and unless she brought a car. On the intervention of Kuljit Kaur and Buta Singh, mediators of the marriage, the deceased was allowed to reside again in her matrimonial house. The complainant's sister on 06.12.2015 at about 07:00 A.M. called up the complainant and told him that her husband, mother-in-law, father-in-law were having an altercation with her and she feared that they may kill her. It was further stated that at about 10:00 A.M. complainant's sister again called her and informed that her husband has taken some poisonous medicine and that he has been taken to Mahajan Hospital. On receipt of this information the complainant along with his mother and aunt/mediator Kuljit Kaur reached the Hospital at Fatehgarh Churian and came to know that the complainant's sister had died due to hanging. Dead body of the complainant's sister was found on the bed in her room and her shawl was hanging with a ceiling fan. It is stated in the FIR that on seeing the complainant and others the parents of the deceased ran away from the house. FIR in this respect was thereafter lodged.

The complainant testified before the learned trial Court on 15.09.2016 alleging that the husband, parents-in-law as well as the sisters-in-law of the deceased used to harass and torture her and all of them demanded a car and turned her out of the matrimonial home after physically

abusing her a number of times. He further stated that he along with his aunt and mother reached village Khera Kalan on 08.12.2015. Both the sisters-in-law of the deceased including respondent No.2 were found present. They fled from the spot on a scooter on seeing them. Application (Annexure P3) was moved for summoning the father-in-law-Avtar Singh, Lakhwinder Kaur, mother-in-law, as well as respondent No.2-Prabhjot Kaur @ Jyoti, sister-in-law. The said application was decided by the learned trial Court vide impugned order dated 17.10.2016. The application for summoning Avtar Singh and Lakhwinder Kaur, father-in-law and mother-in-law was allowed and qua respondent No.2 it was dismissed. Aggrieved therefrom the present petition has been filed for summoning of respondent No.2 as well.

Learned counsel for the petitioner vehemently argues that respondent No.2 though married was living with her parents. She played an active role in the death of the complainant's sister. She is clearly named in the FIR and specific allegations are levelled against her. Therefore, the learned trial Court has erred in dismissing the application under Section 319 Cr.P.C. qua respondent No.2 while rightly summoning the parents-in-law to face trial as additional accused.

Learned counsel for respondent No.2 while refuting the aforementioned averments states that no specific role has been attributed to respondent No.2 who is admittedly married. Respondent No.2 is living with her husband and two minor children. She was married in 2009 much prior to the marriage of the deceased. Respondent No.2, it is submitted, is sought to be implicated only because she is a Government employee working as a Teacher. It is argued that there is nothing on record to show that respondent No.2 was living with her parents. Reference is made to the Memo of Parties

to submit that respondent No.2 is a resident of village Dharowali (her in-law's village) and this fact is duly accepted by the petitioner. Application under Section 319 Cr.P.C. was in fact prepared even prior to recording of the statement of the petitioner on 15.09.2016. A reference in this respect, it is submitted, has also been made in the impugned order. There is no evidence on record which calls for the summoning of respondent No.2 to face trial as an additional accused. It is submitted that the learned trial Court has correctly passed the impugned order in respect to respondent No.2. No ground whatsoever is made out for setting aside the said order in this respect.

Heard learned counsel for the parties. File is perused with their able assistance.

No specific allegation has been raised against respondent No.2 in the FIR. General allegation against all the persons named as accused has been levelled to the effect that they used to taunt the complainant's sister and compelled her to bring more dowry. The petitioner however while testifying before the learned trial Court stated that the sisters-in-law of the deceased i.e. respondent No.2 as well as Mandeep Kaur met them near the house of the accused when they reached after her death, but both of them fled from the spot on a scooter when they saw the complainant and others. Such an averment is admittedly not made in the FIR. No other evidence against respondent No.2 has been pointed out. The learned trial Court has observed that the application (Annexure P3) under Section 319 Cr.P.C. was in fact prepared on 03.08.2016, forwarded by the Additional PP on 03.08.2016 itself whereas the statement of the complainant-petitioner was recorded on 30.08.2016 and cross-examination conducted on 15.09.2016.

The application in question was filed on 15.09.2016.

The additional contention raised by learned counsel for the petitioner that *bonafides* of the complainant side are reflected by not addressing a prayer for summoning of Mandeep Kaur i.e. another sister-in-law of the deceased is untenable in the light of the facts and circumstances as narrated above. As held by Hon'ble the Supreme Court in ***Brijendra Singh & Others v. State of Rajasthan*** 2017 SCC OnLine SC 491 there has to be some thing more than *prima facie* evidence though less than clinching evidence which if unrebutted would necessarily lead to the conviction of the said accused for summoning him/her as an additional accused to face trial on an application under Section 319 Cr.P.C.

Learned counsel for the petitioner is unable to point out any illegality, infirmity, perversity or any error in the impugned order dated 17.10.2016 passed by the learned Additional Sessions Judge, Gurdaspur, which calls for interference by this Court in exercise of its revisional jurisdiction.

Petition is accordingly dismissed.

None of the observations made here-in-above shall be construed to be a reflection on merits of the case and shall have no bearing on trial.

30.10.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No