

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

Crl. Revision No. 2128 of 2017 (O&M)
Date of decision: 17.8.2017

Sat Narain

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

Crl. Misc. No. 24961 of 2017

The application is allowed. The date fixed in the main case is preponed for today. The matter is taken up.

Main case

1. This revision has been directed against the order dated 2.5.2017 passed by the Additional Sessions Judge, Rewari, dismissing the application under Section 216 of the Code of Criminal Procedure (for short '**the Code**') for addition/alteration of the charge.

2. Learned counsel for the petitioner contends that the marriage of the daughter of the petitioner was solemnized with Shakti Raj on 1.12.2011, according to the Hindu rites and ceremonies. A huge amount was spent on the marriage ceremony, besides given a car and a motorcycle, as demanded.

However, despite giving adequate dowry, daughter of the petitioner was

harassed and humiliated on the pretext of bringing inadequate dowry and ultimately she was turned out of the matrimonial house after three months of the marriage. She had been brutally beaten and due to excess bleeding, the daughter of the petitioner suffered miscarriage. This resulted in lodging of an FIR under Sections 498-A, 406, 315, 323/34 IPC. In the proceedings before the trial court, statement of the daughter of the petitioner was recorded and in the intervening night of 20/21.10.2014, the daughter of the complainant committed suicide, which resulted in lodging of another FIR No. 322 of 2014 under Sections 304-B, 306/34 IPC registered at Police Station City Rewari. On investigation, the mother-in-law and the father-in-law were kept in column No.2 and the challan was only presented against the husband. The petitioner moved an application under Section 193 of the Code for summoning the father-in-law and the mother-in-law as additional accused, which application stood dismissed by order dated 28.4.2016. By order dated 7.5.2016, while framing the charge under Section 304-B IPC, the trial court held that prima facie there was no ground to frame charge under Section 306 IPC. The petitioner thereafter found a hand written note of the deceased daughter stating that she was tortured and humiliated in her matrimonial home. On the basis of this document, the petitioner moved an application under Section 216 of the Code praying for alteration of the charge and to add Section 306 IPC. This application was not allowed, giving rise to the instant petition.

3. Learned counsel appearing on behalf of the petitioner vehemently contends that the deceased committed suicide on 22.10.2014,

one day prior to the date fixed before the Court of Additional Sessions Judge, Rewari. It is argued that there was enough material available for altering the charge from Section 304-B IPC to 306 IPC.

4. I have heard learned counsel for the petitioner and have also perused the order as passed by the Additional Sessions Judge, Rewari.

5. A perusal of the order passed would show that the learned Additional Sessions Judge took note of the fact that the petitioner herein had actively pursued the case filed under Section 304-B IPC against the accused/son-in-law by moving an application first under Section 193 of the Code and second application under Section 319 of the Code for summoning the parents of the accused under Section 304-B IPC, but both the applications stood dismissed. Learned Additional Sessions Judge also noted that there was apparent contradiction in the stand taken by the complainant in the application moved under Section 216 of the Code for alteration of the charge. In fact, from the day one, the petitioner herein had been agitating that his daughter had committed suicide by consuming poisonous tablets being fed up from her in laws and it is for the first time in the application dated 17.4.2017 it was mentioned that the deceased (daughter of the petitioner) had been in fact abetted to end her life by the conduct of the accused.

6. It is undoubtedly true that the charge can be altered, added or deleted by virtue of Section 216 of the Code, but the charges have to be framed on the basis of the material available with the trial court. In the instant case, there is no change in the circumstances or any new material on

the record to allow the petitioner to agitate for addition of the charge from Section 304-B IPC to Section 306 IPC. Learned Additional Sessions Judge has rightly held that several material witnesses have already been examined and there was no ground made out for allowing the application.

7. In view of the above, the revision is dismissed.

17.8.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No