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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1430 OF 2018

Mrs. Priti Upendra Parekh

.....Petitioner

V/s.

The State of Maharashtra and another

....Respondents

Mr. Yogesh Katira for the petitioner.

Mrs. N. S. Jain APP for the State.

CORAM : NITIN W. SAMBRE, J.

DATE : APRIL 9, 2018.

P.C.

Petitioner was married to deceased Upendra Parekh on 26/11/2016. Upendra died on 04/01/2009. Till the death of the husband of the petitioner, there were no cases under the Indian Penal Code.

2 Present petitioner filed a case being R.C.C. no. 1110 of 2009 in which application Exhibit 64 came to be moved with prayer for permission to add sisters-in-law Deepti, Sonal along with her husband Adhir.

3 In the said proceedings which were initiated in 2009, the aforesaid application was moved on 29/08/2016, perhaps at the fag end of the trial which came to be rejected vide impugned order dated 03/08/2016 passed by Judicial Magistrate First Class, Court No. 4, Pune. Present petitioner, feeling aggrieved, preferred Revision no. 458 of 2017 which came to be rejected vide order dated 15/02/2018 by the learned Sessions Judge, Pune. As such, this petition.

4 The learned counsel for the petitioner-complainant would invite attention of this Court to final report in the aforesaid criminal case, evidence of the witnesses recorded by the learned Magistrate so as to urge that the intention to prosecute the accused who are sought to be added under section 319 of the Code of Criminal Procedure, 1973 (Hereinafter referred to as “Cr.P.C.” for the sake of brevity) could be read from her own evidence-complaint, evidence of other witnesses and contents of application Exhibit 64. The learned counsel submits that the nature of allegation in the complaint and other evidence brought on record needs to be considered while dealing with an

application under section 319 of the Cr.P.C. for addition of accused persons. According to him, the learned Trial Court and also Revisional Court committed an error in not adhering to the principles which are germane to the cause for dealing with application for prayer under section 319 of the Cr.P.C. According to him, certain instances are brought on record through evidence which pin points the involvement of the accused persons who are sought to be impleaded in the criminal case. According to him, this Court, in extraordinary jurisdiction should show indulgence and allow application Exhibit 64 by quashing the order passed by both the Courts below.

5 The learned APP submits that in the facts and circumstances, the Court may pass appropriate orders.

6 The marriage of the petitioner on 26/11/2006 and death of her husband on 04/01/2009 is a fact which is not in dispute.

7 It is only after the death of her husband, present applicant has

come out with present criminal case way back in 2009 and after a period of 7 years, an application for addition of accused persons is moved when in fact, the trial has reached at an advanced stage as recording of evidence of the witnesses was over. It is informed that the case before the Trial Court is fixed for final hearing.

8 No doubt, it is open for the Trial Court to invoke provisions of section 319 of the Cr.P.C. even at an advanced stage of the trial, however, such prayers of the petitioner-complainant that too at the stage of final hearing and after lapse of period of more than 7 years from the complaint is required to be appreciated.

9 From the record it is born out of that the accused who are sought to be added were well within the knowledge of the petitioner being sisters and her husband. The fact about alleged ill-treatment meted out to the petitioner by them is suddenly realized by the petitioner after period of 7 years for which hardly any explanation is coming forward. Ill-treatment prior to the filing of the complaint, such ill-treatment continued even after filing of the complaint, cannot

be inferred against the accused persons as no material on record to infer such treatment is produced.

10 What is noticed from the conduct of the petitioner is that the petitioner is interested more in prosecuting all the family members of the husband, perhaps in the background of pendency of civil dispute in relation to property of the husband, in between the petitioner on one hand and brother-in-law and other relations of deceased husband on the other hand.

11 The attempt on the part of the petitioner to seek addition of accused persons under section 319 of the Cr.P.C. particularly after period of 7 years of the complaint and that too at the stage of which trial is, has been rightly dealt with and rejected by both the Courts below.

12 The conduct of the petitioner itself speaks voluminous as to mode and manner in which she intend to proceed against in-laws and other family members, perhaps with an intention to achieve her

object of twisting the arms of in-laws to secure interest in the property.

13 The aforesaid conduct of the petitioner, *prima facie* prompts this Court to consider passing an order of imposing exemplary cost, however, the only consideration which restrained this Court from imposing such cost against the petitioner is that she is a widow.

14 I hardly notice any ground which warrants interference. Rather the only conclusion that can be drawn is the object and intention with which present petition is being filed is not bonafide. Petition fails, dismissed.

[NITIN W. SAMBRE, J.]