

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12795 of 2018(O&M)
Date of Decision: 02.05.2018

Nathi Ram

..... Petitioner

Versus

State of Haryana and others

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Tanmoy Gupta, Advocate
for the petitioner.

LISA GILL, J (Oral).

This petition has been filed challenging order 30.10.2017, passed by the learned Additional Sessions Judge, Palwal, whereby application under Section 319 Cr.P.C., for summoning Savita @ Poonam, Kavita wife of Sonu as well as Sonu, has been dismissed.

Savita @ Poonam and Kavita, are the sister-in-laws (Nanad) and Sonu is the husband of Kavita (Nandoiya) of the deceased though not impleaded as parties to this petition.

Brief facts necessary for the adjudication of the case are that FIR No. 60 dated 06.05.2017, was registered whereby respondents no.2 to 4 alongwith the above-said three persons were named. Kavita, Savita @ Poonam and Sonu during investigation were found innocent. Statements of the complainant-Nathi Ram (PW-1) and Vishnu Dutt, brother of the deceased (PW-2) were recorded before the learned trial Court. Application under Section 319 Cr.P.C was thereafter moved for summoning the sister-in-laws and husband of

the sister-in-law. Said application was dismissed by the learned trial Court while observing that evidence on record does not justify summoning of the said persons as additional accused to face trial. Aggrieved therefrom the petitioner has filed this petition.

Learned counsel for the petitioner vehemently argues that all the above-said persons have been specifically named in the FIR. In the evidence before the learned trial Court, the complainant (PW-1) and his son (PW-2) raised specific allegations against them. However, he does not press this petition against Sonu i.e. brother-in-law (Nandoiya) of the deceased. It is submitted that even though Savita @ Poonam and Kavita were married prior to the deceased, they were interfering in her matrimonial life on a regular basis. Kavita was herself facing matrimonial discord and often used to stay at her parental home. Therefore, she is guilty of the offence in question. It is thus prayed that this petition be allowed qua the said sisters-in-law.

Heard learned counsel for the petitioner at length.

As per allegations in the FIR (Annexure P-2) marriage of the deceased was solemnized with Mukesh @ Manoj on 30.01.2013. Sufficient dowry was allegedly given at the time of marriage. It is alleged that after few months of marriage, the deceased's husband, parents-in-law, both the sister-in-laws and brother-in-law tried to kill the complainant's daughter by trying to suffocate her with a pillow, but she manage to escape. It is further alleged that the complainant's daughter was subjected to physical abuse. A child was delivered at the parental home. None from the in-laws family came to inquire about his daughter. They did not even bear the expenses of the delivery of the child. The complainant's daughter was sent back to the matrimonial home along with sufficient gifts etc. It is alleged that Kavita and Savita @ Poonam (sister-in-laws) came to the complainant's house and physically abused her daughter and insulted the complainant's family. Sonu (Nandoiya of the deceased) was

also alleged to be with them. It is alleged that on 05.05.2017, the complainant's daughter was physically abused. Ultimately, dead body of the complainant's daughter was recovered on 06.05.2017. The complainant's daughter was purported to have lost her life in a railway accident.

It is not in dispute that Kavita (sister-in-law) of the deceased was married fifteen (15) years prior to the marriage of the complainants daughter and Savita @ Poonam was married seven (07) years prior to the marriage of the complainant's daughter, though it was her second marriage. General allegations have been levelled against the said sister-in-laws and brother-in-law. No specific details of instances are forthcoming on record. There is no medical evidence on record to substantiate any allegation of physical abuse qua the deceased by the said sisters-in-law.

It has been held by the Hon'ble Supreme Court in **Hardeep Singh versus State of Punjab and others 2014 (3) SCC 92** and **Brijendra Singh versus State of Rajasthan 2017 SCC Online SC 491** that for summoning a person to face trial as an additional accused, there has to be something more than *prima facie* evidence though less than evidence to the extent which if unrebutted, would lead to certain conviction of the said accused. In the factual matrix of the case, it cannot be said at this stage that there is evidence of this nature available on record which would justify the summoning of the sisters-in-law of the deceased. Petition has not been pressed qua the brother-in-law (Nandoiya) Sonu.

Learned counsel for the petitioner is unable to point out any infirmity, illegality or perversity in the impugned order dated 30.10.2017, which calls for interference by this Court in exercise of jurisdiction under Section 482 Cr.P.C.

Accordingly, this petition is dismissed.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

02.05.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.