

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

CRR-2255-2015(O&M)

Date of decision: 22.1.2018

Bijender and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Argued by: Mr.Sanjay Vashisth, Advocate
for the petitioners.

Mr.Gaurav Bansal, AAG, Haryana

Mr.Neeraj Sheoran, Advocate
for the respondent/complainant.

H.S. MADAAN, J.

This revision petition is directed against the order dated 9.6.2015 passed by the Court of learned Sessions Judge, Bhiwani vide which he had summoned petitioners – Bijender, Sumitra, Banita and Ajay under Section 319 Cr.P.C. to face trial along with accused Sajjan and Chand Ram already facing trial.

Such petitioners prayed that the revision petition be accepted, the impugned order be set aside and application under Section 319 Cr.P.C. so moved by the prosecution be dismissed.

Briefly stated, facts of the case as per prosecution story are

that on 3.12.2014, a police party from Police Station Sadar, Bhiwani was present at Badhra turning, Jui Kalan having erected a barricade there; that in the meanwhile complainant - Sharmila Devi accompanied by her brother-in-law came there and submitted a written complaint alleging therein that on 1.12.2013 at about 9:00 a.m., her husband Rajender had gone to village but did not return; that she searched for him and came to know that her husband had gone towards the house of Chand Ram since a dispute regarding plot was going on with him and when she reached at the house of Chand Ram, she found that her husband was being beaten up by them and he was tied; that when she resisted, Sajjan slapped her and dragged her out of the house and proclaimed that they would kill her husband; that thereafter, she went to Bhiwani to inform her family members regarding the incident, where she came to know that those persons along with Sajjan and Chand Ram had killed her husband and then she became unconscious; that on 3.12.2014, when Raj Kumar, a younger brother of her husband serving in Army came home, then she disclosed the entire incident to him; that she alleged that persons so mentioned had killed her husband inside their house by giving beatings to him on account of a dispute over a plot. Formal FIR was registered on the basis of such written complaint of complainant. The case was investigated. Accused Sajjan and Chand Ram were arrested in this case on 5.12.2014, however, other persons named in the complaint, namely, Bijender, Sumitra, Banita and Ajay were found to be innocent. After completion of investigation and other formalities, challan against Sajjan and Chand Ram was filed in the Court.

During the trial against Sajjan and Chand Ram, an

application under Section 319 Cr.P.C. was filed to summon Bijender, Sumitra, Banita and Ajay as additional accused, which was allowed by the trial Court making following observations:

According to prosecution version as contained in written complaint Exhibit PC of complainant Sharmila Devi, her husband was beaten to death by accused Sajjan along with his family members after having been tied. She had witnessed the occurrence with her own eyes. Learned defence counsel argued that except the name of accused Sajjan, the complainant had not given the name of any other person in her complaint moved to the police but this argument of learned defence counsel does not carry much weight. In her complaint Exhibit PC, the complainant stated that when she reached at the house of Chand Ram, she saw that they were beating her husband Rajender after having been tied. In the sense, she was saying about Chand Ram and his family members. By not mentioning specific names of each accused, she had named them collectively. Being a rustic village lady, she was not supposed to know the niceties of the law and she had given a true account of the occurrence witnessed by her. She further stated that when she tried to intervene, she was given a slap and was dragged out of the house by Sajjan son of Chand Ram. Thereafter, she rushed to Bhiwani to inform her family members where she came to know that her husband had already been killed by the accused. She also divulged the reason for killing her husband. On the basis of complaint moved by her to the police, formal FIR was recorded. During investigation, statements of witnesses were recorded under Section 161 Cr.P.C. and witnesses Krishan son of Hardev Singh, Vijya Pal son of Daya Chand, Ravi Kumar son of Baldev Singh and

Sandeep son of Hardev Singh in their statements stated that Rajender was beaten to death by the above named accused along with the accused already facing trial.

Moreover, when complainant Sharmila appeared in the Court as PW9, she deposed that Rajender, since deceased was her husband. She alongwith her family reside in the fields. On 1.12.2014 about 9:00 a.m., her husband had gone to bring sugar from a shop in the village and had told that he would return within 15-20 minutes. But he did not return. After waiting for about two hours, she went to the village in search of her husband and enquired from some villagers about her husband. Then she went to the house of Chand Ram and there she found that her husband was tied with a rope and he was being beaten by Chand Ram, Sajjan, Bijender, Sumitra wife of Sajjan, Vanita wife of Bijender and Ajay son of Sajjan with weapons like lathi, blow pipe etc. Then she went inside the house of aforesaid persons and asked them as to why they were beating her husband. Then Sajjan caught hold of her both hands and gave a slap to her and pushed her out of the house. Then Sajjan proclaimed that they would done her husband to death. Thereafter, she cried loudly but none came to rescue her husband. Then her husband asked her to go to the house and tell the family members. Then she came to Bhiwani where she found her mother-in-law and sister crying as they had come to know that her husband had been murdered. Thereafter she fell unconscious. Her husband had a plot dispute with the aforesaid persons and they wanted to take out plot forcibly and due to that reason, they had done her husband to death. The accused persons were giving a threat to her husband time and again and they had beaten her husband earlier also. She further

stated that only accused Sajjan and Chand Ram were challaned by the police and her case was spoiled by the police and doctor regarding which she and her brother-in-law had moved application to the higher authorities at Rohtak.

The trial Court concluded that Sharmila Devi complainant as well as eye-witness of the occurrence had given a true account of the incident and her version could not be doubted at this stage. Her statement finds corroboration from other witnesses in their statements recorded under Section 161 Cr.P.C. It has further been observed that complainant when stepped into witness-box as PW9 stated in clear and unequivocal terms that accused sought to be summoned as additional accused along with the accused already facing trial had caused murder of Rajender by beating him to death and further as per inquest report, there were blue marks on both the thighs of the deceased, which fact is evident from the photographs available on the file. Therefore, merely due to the reason that during investigation, the persons sought to be summoned as additional accused were found innocent is no ground to dismiss the application under Section 319 Cr.P.C. Therefore, the application was allowed.

I have heard learned counsel for the parties besides going through the record.

I do not find any wrong in the impugned order, rather it is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law.

In view of the above discussion, no infirmity or illegality in the impugned order is found to be there, which might have warranted

interference by this Court while exercising powers under Section 401 Cr.P.C. Resultantly, the revision petition stands dismissed.

Copy of the order be sent to the trial Court for information and necessary action.

22.1.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No