

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

Criminal Revision No.1859 of 2017(O&M)

Date of Decision: February 20 , 2018.

Gurmeet Kaur

..... PETITIONER (s)

Versus

State of Punjab

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

Mr. Sandeep Arora, Advocate
for the complainant.

LISA GILL, J.

The petitioner, the mother-in-law of the deceased, is aggrieved of order dated 22.02.2017 passed by the learned Additional Sessions Judge, Jalandhar whereby she has been summoned as an additional accused on an application moved under Section 319 Cr.P.C. to face trial in FIR No.79 dated 16.05.2015, under Section 306 IPC registered at Police Station Sadar, Division No.7, Jalandhar.

Brief facts necessary for adjudication of the case are that, FIR No.79 dated 16.05.2015, under Section 306 IPC was registered on a statement of the

complainant, Harpreet Singh @ Goldy brother of the deceased. It is stated therein that the complainant's father lives in Kenya. Complainant's elder sister Barinderjit Kaur @ Dolly was married to Manjinder Singh on 05.02.2013. A daughter was born out of this marriage. It is stated that ever since his sister's marriage, she had acrimonious relations with her husband, mother-in-law and sister-in-law. She often used to talk to the complainant about the same. On 16.05.2015, when the complainant was coming back to his residence at Jalandhar from Delhi alongwith his wife and mother, two phone calls were received from his sister Dolly. The complainant's mother talked to his sister as he was driving. His mother instead of listening to his sister started telling her own stories. The complainant's sister asked for the phone to be given to the complainant. She asked the complainant to come to her residence. On inquiry, it was revealed that she was very upset as she was harassed by her husband and mother-in-law. She however said that she would talk in detail when the complainant comes to her home as he was driving at that time. The complainant alongwith his mother and wife reached their own residence at about 1 O'clock in the afternoon. The complainant went off to sleep and his mother woke him up stating that intimation has been received from his sister's in-laws that something had happened. When they reached his sister's residence, they were told by the present petitioner that the complainant's sister had cheated them and had brought disrepute to them. The complainant rushed towards his sister's room and discovered that locks of the bathroom and bedroom were broken. On inquiry, it was revealed by the present petitioner that the complainant's sister was in hospital. It is stated that the complainant came to know from outside that his sister had hanged herself

and was lying in the hospital at Jaswant Nagar in the emergency. Thereafter, a supplementary statement was suffered by the complainant and his mother on 24.05.2015 levelling specific allegation of demand of dowry, ill-treatment and harassment meted out to the deceased as well as details of the articles given to the accused persons at the time of marriage of Barinderjit Kaur @ Dolly (deceased). It was alleged that the husband and parents-in-law of the complainant's sister started making sarcastic comments about bringing insufficient dowry. The complainant's sister was subjected to harassment and ill-treatment when the complainant bought a new vehicle for himself. The in-laws family of his sister started demanding ₹5,00,000/- for buying a car. ₹2,00,000/- were given to them in January 2014. Demand of another ₹10,00,000/- was raised since five six months prior to the incident.

Final report under Section 173 Cr.P.C. was submitted on 15.07.2015 (Annexure P3) against the co-accused Manjinder Singh (husband of the deceased). It is mentioned therein that an inquiry was being conducted on an application moved by the present petitioner and other co-accused. In case any new fact come to light, supplementary challan would be presented. The present petitioner and sister-in-law of the deceased were found innocent on investigation and a supplementary challan was presented on 23.10.2015 (Annexure P4). The learned trial court while not accepting the same, issued notice to the present petitioner and sister-in-law vide order dated 30.01.2016 (Annexure P5).

The said order was assailed by the present petitioner by way of CRR No.1079 of 2016, which was allowed by this Court on 19.12.2016 (Annexure P6) on the ground that having taken cognizance of the matter, the learned trial

court could not have summoned them except by invoking the provisions of Section 319 Cr.P.C. It is clarified in order dated 19.12.2016 that passing of the said order is not a bar for summoning the additional accused under Section 319 Cr.P.C. on the basis of evidence which may be produced in court.

The complainant was examined before the learned trial court on 20.01.2017 wherein specific allegations were raised against the petitioner. Application under Section 319 Cr.P.C. was moved for summoning the petitioner and the sister-in-law of the deceased which was allowed by the learned trial court vide impugned order 22.02.2017. Aggrieved therefrom, this petition has been filed by the petitioner, who is the mother-in-law of the deceased.

Learned counsel for the petitioner vehemently argues that initially the complainant had not raised any demand of dowry whatsoever while recording his statement on 16.05.2015. It is after much thought and deliberations that such allegations have been raised by the complainant and his mother on 24.05.2015. In case there was any truth in the allegations, the same would have surfaced at the initial stage on 16.05.2015 itself. Moreover, the Investigating Agency conducted a thorough inquiry into the matter and found the petitioner innocent. Reference is made to the inquiry report dated 15.07.2015 (Annexure P8). It is submitted that statements of relatives of the deceased herself have been recorded which indicate that no dowry had been demanded or given at the time of marriage of the deceased. In fact the deceased had herself got one of her cousin sister married to her brother-in-law Gursharan Singh. It is further argued that the call detail records which were gathered during investigation do not support the version given by the complainant. All these facts have been duly considered

by the Investigating Agency and it is only thereafter that the petitioner was declared to be innocent. This Court on 19.12.2016 had set aside order dated 30.01.2016. The learned trial court should not have relied upon the statement of the complainant which is merely a reiteration of the averments made by him in his supplementary statement. Reliance is placed by Learned counsel for the petitioner on the judgments of the Hon'ble Supreme Court in **Hardeep Singh v. State of Punjab, 2014(1) RCR (Criminal) 623** and **Brijendra Singh and others v. State of Rajasthan, 2017 Cri. L.R. 465**. It is thus prayed that this petition be allowed.

Learned counsel for the respondents submit that there are disputed questions of fact involved in this case which this Court may not wish to deal with at this stage. It is argued that there is nothing on record to indicate as to why the complainant's sister would have committed suicide if she was happily married and living peacefully in the matrimonial home as is sought to be projected in the inquiry report. It is vehemently argued that the effect or otherwise of the statements of the persons recorded by the investigating agency would be subject to the scrutiny of the trial court. The investigating agency has wrongly declared the petitioner to be innocent. There is sufficient evidence on record to indicate the culpability of the petitioner. It is thus prayed that the impugned order be upheld.

I have heard learned counsel for the parties and have gone through the file.

It is not in dispute that the complainant's sister was married to the petitioner's son on 05.02.2013. A daughter was born out of this matrimonial

alliance. The complainant's sister died in the matrimonial home on 16.05.2015 i.e., within a little over two years of the marriage. Cause of death is stated to be asphyxia by hanging. Argument on behalf of the petitioner that as the complainant at the outset on 16.05.2015 did not raise specific allegations of demand of dowry or harassment on account of insufficient dowry it reveals a concoction and an attempt to falsely implicate the petitioner, is not tenable at this stage. A perusal of the FIR reveals a narration of the facts, which were given immediately on the death of the complainant's sister. It is specifically mentioned therein that ever since her marriage there often used to be arguments between the complainant's sister, her husband, mother-in-law and sister-in-law. She had been complaining about the same to the complainant, who had been advising her to adjust to the situation. It is specifically mentioned that the complainant's sister had however retorted that why only she was always asked to bear all the things and make adjustments. In the supplementary statement details about specific demand of dowry by the in-laws of his sister including the petitioner has been raised. The reasons for the acrimony are detailed. It is mentioned that the entire gold jewellery of the deceased had been kept by the petitioner since the first day of marriage and the deceased was not allowed to use it. The complainant in his statement (Annexure P7) before the learned trial court has given specific details.

I have gone through the inquiry report dated 15.07.2015 (Annexure P8) on the basis of which the present petitioner has been found innocent. Doubtlessly, statements of some of the relatives of the parties have been recorded. However, at this stage to conclude merely on the basis of the said statements/call records, that there is no evidence on record to indicate the

complicity of the petitioner which justifies summoning of the petitioner on an application under Section 319 Cr.P.C., is not correct. It has been held by the Hon'ble Supreme Court in Hardeep Singh's case (supra) that there has to be something more than a prima case than mere probability of the complicity of the accused persons summoned as additional accused. It is also observed in the said case that,

“17. The court is the sole repository of justice and a duty is cast upon it to uphold the rule of law and, therefore, it will be inappropriate to deny the existence of such powers with the courts in our criminal justice system where it is not uncommon that the real accused, at times, get away by manipulating the investigating and/or the prosecuting agency. The desire to avoid trial is so strong that an accused makes efforts at times to get himself absolved even at the stage of investigation or inquiry even though he may be connected with the commission of the offence.”

In the present case, there is sufficient and cogent evidence stronger than a mere prima facie case, which justifies the summoning of the petitioner to face trial as an additional accused. The complainant's sister has died in the matrimonial home within a little more than two years of her marriage. The petitioner was admittedly living in the same house. Needless to say, the entire evidence adduced would be looked into by the learned trial court. The learned trial court has rightly summoned the petitioner as an additional accused to face trial. There is nothing on record to indicate that the learned trial court has exercised its jurisdiction in a casual or cavalier manner.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 22.02.2017 passed

by the learned Additional Sessions Judge, Jalandhar which calls for interference by this Court in revisional jurisdiction.

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.

February 20 , 2018.
'om'

(**LISA GILL**)
JUDGE

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