

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

CRR No.1993 of 2017

Date of decision: 13th November, 2018

Santokh Singh & others

... Petitioners

Versus

State of Haryana & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sanjay Vashisth, Advocate
for the petitioners.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for the respondent No.1/State.

Ms. Rupinder K. Thind, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

In the case by way of FIR No.300 dated 29.04.2016 under Sections 304-B, 120-B, 328 IPC pertaining to Police Station City Sirsa, during the course of trial statement of PW1 Kashmir Singh complainant was recorded and consequent upon it, an application under Section 319 Cr.P.C. was moved by the prosecution for summoning of Aman Kaur alias Asha Rani, Paramjeet Kaur and Santokh Singh, present revisionists, as additional accused. The Court of learned Additional Sessions Judge, Sirsa through impugned findings dated 07.04.2017 allowed the application and summoned these persons as additional accused. That is how the present revision has come about.

Heard Mr. Sanjay Vashisth, Advocate for the petitioners;

Mr. Munish Sharma, Asstt. Advocate General, Haryana on behalf of

respondent No.1/State; Ms. Rupinder K. Thind, Advocate representing respondent No.2 and perused the records of the case.

The present case was got registered on the statement of complainant Kashmir Singh. In his statement, the complainant alleged that his elder brother Baldev Singh had died and he was looking after his children and had got married daughter of Baldev Singh namely Amandeep Kaur with accused Devender Singh. It is alleged that at the marriage sufficient dowry articles were given however after one year of the marriage a dispute had arisen due to insufficiency of dowry and in the meanwhile Amandeep Kaur (now deceased) gave birth to a girl child. It is alleged that the complainant side had made frantic efforts to settle the matrimonial dispute but to no avail. On the day of occurrence i.e. 29.04.2016, the complainant received a telephonic call around 11:25 a.m. whereby the deceased had informed her plight to the complainant and requested him to take her away as the whole family had gathered comprising of elder brothers of her husband Balwinder Singh alias Ladda, his wife Paramjeet alias Pammi (so sought to be summoned as additional accused), Pinder alias Balwinder, his wife Aman (so sought to be summoned as additional accused), father-in-law Santokh Singh (so sought to be summoned as additional accused) and her husband Devender Singh, who all were giving beatings to her and ill-treating her and apprehended that she might be killed. It is subsequent thereto, it was

revealed that the same very day the deceased died because of poisoning leading to registration of the present case.

Upon examination of the complainant Kashmir Singh as PW1, instant application has come about on the grounds that these persons so sought to be summoned as additional accused were named in the FIR, the document first in point of time and so in the testimony of PW-1 and which prayer was allowed by the impugned order.

The contentions of learned counsel for the petitioners that there is no specific role assigned to these persons so being sought to be summoned as additional accused and it is a gross misuse of the process of the Court, has been well countered by the learned State counsel Mr.Munish Sharma, Asstt. Advocate General, Haryana arguing that it is not a belated, fabricated evidence as even in the FIR it was found mentioned and the details made in the telephonic conversation by the deceased which also forms oral dying declaration, shows it so together with the fact that the deceased had died within seven years of her marriage under suspicious circumstances, an unnatural death in the matrimonial home on account of demand of dowry and harassment on account of it.

Appreciating the submissions, there is categorical averment made in the FIR that the entire family had gathered and was physically abusing and mentally torturing the deceased when she gave a telephonic call to the complainant intimating of her plight. The complainant as PW1

has categorically stated it so that it was the deceased who on telephone had stated it so to him and thus, by all means it falls within the ambit of oral dying declaration.

Their Lordships of Hon'ble the Supreme Court, in '**Hardeep Singh vs. State of Punjab and others**' 2014(3) SCC 92, while answering the question as to the definition of term 'evidence' have held that though no straitjacket formula can be laid with respect to the cases of evidence but where a person who has been named in the FIR but has not been chargesheeted, can be summoned with the aid of Section 319 Cr.P.C., provided that the evidence is of such a nature that it appears that the person so sought to be summoned can be tried along with the accused already facing trial, and therefore, had held that the evidence collected during the investigations or recorded during the trial can be used to adjudge as to the exercise of powers under Section 319 Cr.P.C.

In the impugned order the Court below had considered in detail that while making complaint (Annexure P1), the complainant has detailed the role of the persons so sought to be summoned as additional accused, in the commission of offence in the occurrence and had further at the trial as PW1 has reiterated the stand. The learned Court has drawn the conclusion that from this all, it is abundantly in evidence that these persons so sought to be summoned as additional accused had prima-facie and convincingly had a definite role in commission of the crime, and thus, has rightly held it so and summoned them by allowing the

application. Learned counsel for the petitioners could not convince this Court how there has been any illegality or perversity in these findings. The same need to be upheld and thus, the present revision petition being hopelessly without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

November 13, 2018
rps

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