

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

CRR-2541-2017(O&M)
Date of decision:-20.7.2018

Hariom

...Petitioner

Versus

State of Haryana and others

...Respondents

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

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

Mr.Neeraj Poswal, AAG, Haryana.

Mr.J.S. Mehndiratta, Advocate
for respondents No.2 and 3.

H.S. MADAAN, J.

This revision petition has been filed by petitioner - Hariom – the complainant feeling aggrieved by order dated 20.5.2017 passed by learned Additional Sessions Judge (Exclusive Court), Bhiwani vide which the application under Section 319 Cr.P.C. for summoning of Om Parkash and Bhateri as additional accused had been dismissed.

Briefly stated, facts of the case are that complainant Hariom had lodged an FIR in question with the police by submitting a written

application alleging therein that his eldest daughter Renu was married with Somesh son of Om Parkash, resident of Rudrol, District Bhiwani on 14.2.2012 and at that time he had given sufficient dowry, however, after marriage of Renu, her husband Somesh and his parents Om Parkash and Bhateri were not satisfied with the dowry given and they started harassing and maltreating her by raising demands of further dowry articles. According to the complainant, he tried to meet their demands once or twice but keeping in view his financial position, he was unable to accede to their increasing demands. He further stated that Renu was in family way and on 18.8.2016 at about 8:00 p.m., he made a telephonic call at her matrimonial home so as to talk with Renu but her father-in-law told him that due to low blood pressure, Renu had died; that on the next day i.e. on 19.8.2016 in the morning, he and his relatives saw dead body of Renu in the mortuary of General Hospital, Dadri and observed that there was froth in her nose. The complainant alleged that Somesh along with his parents had killed Renu by administering poison to her out of greed for more dowry.

On the basis of that written application submitted by the complainant, formal FIR for the offences under Section 304-B, 498-A and 34 IPC was registered. The matter was investigated. Accused Somesh was arrested on 27.8.2016, who during the course of interrogation suffered a disclosure statement and thereafter, offence under Section 302 was added. It was found to be case of murder and not dowry death. It came out that Somesh had committed murder of Renu by strangulating her in a fit of anger, whereas his parents Om Parkash (father) and Bhateri

(mother) were found to be innocent as they were not present at the scene of crime on the fateful day. After completion of investigation, Somesh was challaned.

During trial, the prosecution moved an application under Section 319 Cr.P.C., which was dismissed by learned Additional Sessions Judge(Exclusive Court), Bhiwani vide a detailed order. The latest law on the subject has been discussed. Para No.18 of the order, which is quite relevant and is reproduced as under:-

“Concededly, the matter was investigated by the police after the FIR had been recorded on the statement of the complainant and, during investigation, the police found that Om Parkash and Bhateri were innocent as no case was made out against the above-named family members of the accused on account of their being not at home at the relevant time. Significantly, Investigating Officer PW9 ASI Badri Prashad admitted, during the course of cross-examination that the investigation of this case remained with him from 19.8.2016 to 15.9.2016 but DSP Kuldeep Singh and SHO Suraj Singh verified the investigation. He admitted that it was correct that initially, this case was reregistered under Sections 304B/498A/34 IPC but during course of investigation by him and on verification made by DSP and the then SHO, it came up that this was not a case of dowry death as no demand of dowry was raised at any point of time by the accused, so, Sections 302/316 IPC were added in this case and Sections

304B/498A/34 were deleted. He admitted that it was also correct that it came up during the course of investigation that Somesh accused alone was responsible for the death of the deceased and his parents were not involved in this case in any manner. He admitted that it was also correct that it came up during the course of investigation that Om Parkash, father of accused had gone to village Gokal and Bhateri, the mother of the accused was outside the house. In this manner, consequent upon this investigation, both the proposed accused were held to be innocent of any crime against the deceased by the investigating agency and I am also of the view that the conclusion drawn by the police is absolutely correct. Even a plain reading of the FIR shows that extremely vague allegations were levelled without any basis. Under these facts and circumstances, the complicity of Om Parkash and Bhateri in the crime is not established and no substantive evidence exists against them which would warrant their prosecution with a good chance of conviction. At the cost of repetition, in the absence of any specific allegation, the proposed accused cannot be allowed to suffer at the hands of complainant.

In the present case, I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it.

The order is certainly not in violation of settled principles of criminal

jurisprudence, which might have called interference by this Court while exercising revisional jurisdiction.

Therefore, the revision petition is dismissed.

20.7.2018

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No