

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

**CRR No. 3552 of 2017(O&M)
Date of Decision: 23.01.2018**

Ranbir

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Abhimanyu Kalsi, Advocate
for Mr. Rakesh Dhiman, Advocate
for the petitioner.

LISA GILL, J(Oral).

Petitioner is aggrieved of order dated 30.08.2017, passed by the learned Additional Sessions Judge, Jhajjar, whereby application filed under Section 319 Cr.P.C for summoning respondents no.2 to 4 as additional accused to face trial in FIR No. 741 dated 30.08.2017, under Sections 304-B, 498-A, 34 has been dismissed.

FIR no. 741 dated 30.08.2016, was registered at the instance of petitioner's son Jasbir. It is alleged that the complainant's niece i.e. sister's daughter (granddaughter of the petitioner) was brought up by the complainant since she was 28 days old. Her marriage was solemnized with Vinod (facing trial) two and a half years prior to the occurrence. It is stated that Vinod is residing with his mother-respondent no.4 and brother-respondent no.2. The complainant stated that he suspected his niece to be murdered by all the accused i.e. her husband-Vinod, respondent no.2-Parveen (brother-in-law), respondent no.3-Renu (wife of respondent no.2), respondent no.4-Sarla (mother-in-law) in connivance with each other. A bike was stated to given in the marriage, but, the accused were not satisfied. All the accused were alleged to be demanding a car. The complainant's niece

had taken ₹50,000/- from him on 18.08.2016. Twelve (12) days, thereafter, she was killed by hanging her.

During investigation, respondents no.2 to 4 were found innocent and proceedings were initiated against co-accused-Vinod, who is admittedly facing trial. Complainant-PW-3 was examined in chief before the learned trial Court on 08.05.2017 (Annexure P-2). An application under Section 319 Cr.P.C., was moved for summoning respondents no.2 to 4. The said application was dismissed by the learned trial Court vide impugned order dated 30.08.2017 while concluding that there is no evidence on record to show that respondents no. 2 to 4 were staying together with accused-Vinod and his wife (deceased). It is noticed that in reply to the application under Section 319 Cr.P.C., it is stated that after death of Dharmveer i.e. father-in-law of the deceased-Babita on 22.11.2014, a family settlement was arrived at. Partition took place and since then Vinod alongwith his wife were residing separately. His mother-respondent no.4, is stated to be residing with her other son-Parveen Kumar (respondent no.2) and his wife.

Learned counsel for the petitioner vehemently argues that at this stage, it is only a *prima facie* case which has to be seen for proceeding against the accused persons. Respondents no.2 to 4 have been specifically named by the complainant in the FIR as well as in the statement before the learned trial Court. There is nothing on record to indicate that they were not living together. Therefore, in this situation, the learned trial Court has erred in dismissing the application under Section 319 Cr.P.C.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance

It is to be noted that various opportunities were afforded to the petitioner to furnish any material to show that respondents no.2 to 4 were all

living together with the deceased and her husband-Vinod. Despite opportunities, no such material is forthcoming.

A perusal of the FIR reveals that there is a stray mention of Vinod Kumar residing with his mother and brother-Parveen Kumar, however, in the examination in chief of PW-3-Jasbir (Annexure P-2) there is not even a whisper to this effect. No specific allegation has been raised against respondents no.2 to 4. General, vague and sweeping allegations have been made which cannot be made the basis for summoning the said respondents. Nothing has been pointed out by learned counsel for the petitioner which indicates defective or tainted investigation by the police authorities. In this situation, merely due to relationship of respondents no.2 to 4 with the deceased, it cannot be said that there is sufficient material on record to summon the said respondents to face trial as additional accused. The learned trial Court has rightly dismissed the application under Section 319 Cr.P.C., *qua* respondents No. 2 to 4.

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 respondents No. 2 to 4.

Learned counsel for the petitioner is unable to point out any infirmity, illegality or perversity in the impugned order dated 30.08.2017, which calls for interference by this Court in exercise of its revisional

jurisdiction.

Accordingly, this revision petition is dismissed.

23.01.2018
s.khan

[LISA GILL]
Judge

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