

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

Criminal Revision No. 207 of 2018 (O&M)

Date of decision : January 22, 2018

Gulab Singh

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Johan Kumar, Advocate
for the petitioner.

LISA GILL, J.

The petitioner is aggrieved of order dated 07.12.2017 whereby the learned trial Court has dismissed the application for summoning respondents No. 2, 3 and 4 to face trial as additional accused in FIR No. 133 dated 23.08.2016. Respondent No. 2 is the mother-in-law, respondent No. 3 is the unmarried brother-in-law and respondent No. 4 is the unmarried sister-in-law of the deceased.

Brief facts necessary for adjudication of this case are that FIR No. 133 dated 23.08.2016 was registered at the instance of the complainant – petitioner, who is the brother of the deceased. The complainant stated that his younger sister (deceased) was married with Mahesh Chand (who is facing trial) on 15.02.2016. Dowry beyond their capacity was given but his sister's husband as well as respondents No. 2 to 4 were not happy with the articles given at the time of marriage. A demand of ₹2 lakhs was raised by all of them. She was subjected to ill-

treatment and physical abuse due to which they went on two occasions to the in-laws house of the deceased. Husband of the deceased was pleaded with but he insulted them and threw them out of his house. The complainant's sister telephonically told him that she was being ill-treated on account of not bringing ₹2 lakhs. The complainant received a telephone call on 23.08.2016 from his brother-in-law Mahesh that the complainant's sister (deceased) was not preparing food and she should be taken back home. The complainant alongwith other family members reached the matrimonial home of his sister and they found his sister hanging from the ceiling fan with a dupatta (long scarf) around her neck.

Final report under Section 173 Cr.P.C. was presented against the husband of the deceased whereas the matter was kept pending in respect to respondents No. 2 to 4. Supplementary challan/report under Section 173 (8) Cr.P.C. was presented on 16.10.2017 (Annexure P-1) wherein respondents No. 2 to 4 were found innocent during investigation while noting that respectables of the area have also given their affidavits in this respect. Application under Section 319 Cr.P.C. was filed for summoning respondents No. 2 to 4 to face trial as additional accused. Said application was dismissed vide impugned order dated 07.12.2017.

It is argued with great vehemence that the complainant's sister was done to death by all the persons named in the FIR but they have been wrongly exonerated and the application under Section 319 Cr.P.C. was dismissed erroneously. It is to be noted that in the FIR,

general allegations have been raised against respondents No. 2 to 4. Respondent No. 2 – Maya is the mother-law, respondent No. 3 – Mukesh unmarried brother-in-law and respondent No. 4 is the unmarried sister-in-law of the deceased. It is stated that they all in connivance with each other harassed the complainant's sister for not bringing ₹2 lakhs and did her to death. While no specific allegation is raised against respondents No. 2 to 4, specific allegations have been raised against the husband of the deceased, who is being proceeded against.

I have gone through the testimony of Dr. Gagan, Medical Officer, General Hospital Palwal (PW3) produced in Court today. No injury except the ligature mark on the neck was detected on the person of the deceased. It is specifically opined that the present is a case of suicidal hanging. A copy of statement of PW3 is taken on record subject to just exceptions. The complainant (PW1) and father of the deceased (PW2) in their statements before the learned trial Court (Annexures P2 and P3) have not stated anything regarding the Panchayat allegedly convened by them as mentioned in the FIR. PW2 father of the deceased has admitted that his daughter was under treatment and remained in Mathura Hospital just after two months of the marriage. It is duly noticed by the learned Additional Sessions Judge, Palwal that while forwarding the report under Section 173 (8) Cr.P.C., medical record regarding treatment of the deceased has been attached.

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 anyone 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. Doubtlessly the unfortunate incident has taken place within one year of the marriage but in the factual matrix of the case, it cannot be said at this stage that there is evidence of such 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 07.12.2017, which calls for interference by this Court in exercise of its revisional jurisdiction.

Accordingly, this revision petition is dismissed.

(Lisa Gill)
Judge

January 22, 2018
rts

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No