

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

CRR-2817-2018(O&M)

Date of decision:-14.9.2018

Baldev Kumar

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.G.S. Lalli, Advocate
for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against the order dated 23.5.2018 passed by Judicial Magistrate Ist Class, Barnala vide which an application under Section 319 Cr.P.C. filed by the prosecution for summoning of Kala Ram as an additional accused had been dismissed.

Briefly stated, the facts of the case are that FIR in question was got recorded by complainant - Baldev Kumar son of Billu Ram, resident of Karamgarh, Barnala by making a statement to the police of Police Station Barnala on 23.5.2017 stating therein that on 21.5.2017, a religious ceremony took place at religious place of Peer Baba situated in their residential area; that Sukho wife of the complainant had also gone to

participate in that religious ceremony; that she returned home at 12:30 a.m. and informed the complainant that Sonu alias Lovely son of Kala Ram of their community residing in their village was also present there and while Sukho was cleaning the utensils in the house of Jeeta Ram son of Pritam Ram, then Sonu @ Lovely came there, caught hold of Sukho by her arm and tried to take her inside the room; Sukho protested, then Sonu alias Lovely went away. On coming to know about the incident from Sukho, the complainant, his father Billu Ram and Sukho went to the house of Sonu @ Lovely and Kala Ram father and Pritam Ram, grandfather of Sonu alias Lovely were present at home; Sukho and Billu Ram informed them regarding the incident but they did not pay much attention and told the complainant that his first wife had committed suicide by setting herself ablaze and now he was raising unnecessary issue; when the complainant, Sukho and Billu Ram were on return journey to their house, then Sukho stated that there was no use for her to remain alive and she should better die as she did not want to live; on reaching home, Sukho consumed pesticide and was saying that she did not want to live as she had been defamed a lot, then she became unconscious; she was taken to Government hospital for treatment, from where she was referred to Rajindra Hospital, Patiala, where she died during treatment.

On the basis of statement made by Baldev Kumar @ Kala, formal FIR was recorded. The investigation in the case started. After completion of investigation, challan against Sonu @ Lovely only was filed. During the course of trial against Sonu @ Lovely, the prosecution moved an application under Section 319 Cr.P.C. for summoning of Kala

Ram son of Pritam Singh and Pritam Singh son of Bachan Ram to face trial as additional accused.

Vide a detailed order dated 23.5.2018, Judicial Magistrate Ist Class, Barnala dismissed the said application, which left the complainant aggrieved and he has filed the present revision petition.

I have heard learned counsel for the petitioner besides going through the record.

A perusal of the impugned order goes to show that it has been observed therein that PW1 Baldev Kumar in his statement got recorded during the trial had reiterated the allegations made by him in the complaint, which could not be considered as additional evidence and the Court could not summon the accused on the basis of statement alone, which had already been considered by the police. In support of his such observation, learned JMIC, Barnala has referred to authorities *Hukam Chand and another Versus State of Haryana and another 2007(3) RCR(Criminal) 141, Michael Machado Versus Central Bureau of Investigation, 2000(2) RCR(Criminal) 75.*

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise.

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. I do not see any reason to upset the impugned order.

Resultantly, the revision petition stands dismissed.

14.9.2018

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No