

CRR-400 of 2019

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

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Date of decision: 07.05.2019

Lovepreet Singh and others

.....Petitioners

versus

The State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Arpandeeep Narula, Advocate, for the petitioners.
Mr. Raj Kumar Makkar, Sr. DAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioner has laid challenge to order dated 02.01.2019 of the trial Court, whereby upon application of the prosecution under Section 319 Cr.P.C. he has been summoned as additional accused in case FIR No.256 dated 26.09.2017 registered under Sections 302/34 IPC at Police Station Kalanwali.

Briefly, father of deceased Baljinder Singh lodged the aforesaid FIR against his grandson i.e. petitioner No.1 Lovepreet Singh, his two brothers-in-law namely, Malkiat Singh petitioner No.2, Sukhpal Singh petitioner No.3, his daughter-in-law Karamjit Kaur and her paramour Manpreet Singh on the allegations that in the intervening night of 25/26.09.2017 they all in connivance with each other committed murder of his son Baljinder Singh in the fields and to destroy evidence, they cleaned the place of occurrence. Motive behind murder of his son was that on 24.09.2017 deceased Baljinder Singh had seen his wife Karamjit Kaur in a compromising position with Manpreet Singh at his house for which he gave

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beatings to his wife. However, during investigation petitioners were found innocent. Therefore, while filing final report under Section 173(2) Cr.P.C. against Karamjit Kaur and Manpreet Singh, petitioners were placed in column No.2. Accordingly, Karamjit Kaur and Manpreet Singh were charge-sheeted under Section 302 read with Section 34 IPC. After recording statement of complainant as PW7, prosecution moved application under Section 319 Cr.P.C. to summon petitioners as additional accused, which was allowed by the trial Court vide impugned order dated 02.01.2019.

Learned counsel for the petitioners drawing attention of this Court to Annexure P-7 *inter alia* contends that definite medical opinion has come on the record that son of the complainant had died due to electrocution and therefore, was not murdered by anyone. The trial Court failed to appreciate that there was no *iota* of new evidence, apart from the statement of complainant, which culminated into FIR, to summon the petitioners as additional accused. Therefore, impugned order is bad in law. In support of his contentions, learned counsel relied upon ***Parveen Kansal @ Rocky v. State of Punjab***, CRM-M-38443 of 2017 decided by a Co-ordinate Bench of this Court on 11.09.2018, ***Hardeep Singh v. State of Punjab and others***, 2014(3) SCC 92, ***Michael Machado v. Central Bureau of Investigation***, 2000(1) Apex Court Judgments 404 (S.C.), ***Gurpal Singh v. State of Punjab***, 2001(2) RCR(Crl.) 580, ***Surjit Kaur and others v. State of Punjab and another***, 2006(1) R.C.R.(Criminal) 565, ***Hukam Chand and another v. State of Haryana***, 2007(3) R.C.R. 141 and ***Ashok Kumar v. State of Punjab***, 2008(1) R.C.R.(Criminal) 481.

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On the other hand, learned State counsel pleaded the legality and validity of the impugned order.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision merits acceptance for the reasons to follow.

Alleged motive behind occurrence is illicit relations of Karamjit Kaur wife of deceased Baljinder Singh with Manpreet Singh and on the earlier day, both were seen in a compromising position at his house by the deceased for which he gave beating to his wife. If the said motive is taken into account, in that eventuality, complicity of petitioner No.1, who is son of the deceased, and petitioners No.2 and 3, who are his brothers-in-law, in committing alleged murder of his father is doubtful inasmuch as a son would not kill his father to permit his mother to maintain illicit relations with a stranger.

More-so, initial statement of the complainant Sukhwinder Singh which culminated into FIR and his statement in Court as PW7 is based on suspicion inasmuch as he had only suspicion that all the accused, including petitioners, in connivance with each other committed murder of his son and he did not die due to electrocution. However, definite opinion (Annexure P-7) has come on record that there was no pathological change in heart of the deceased and report of the Chemical Examiner, Karnal, is negative for common poisons and ethyl alcohol.

Therefore, it is evident that there was no *iota* of evidence before the Court to summon petitioners as additional accused. After going through impugned order, it can safely be said that petitioners have been

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summoned in a casual manner without going deep into statement of the complainant and considering overall facts and circumstances of the case.

In view of discussion made above, revision is allowed.

Impugned order dated 02.01.2019 of the trial Court is set aside.

May 07, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No