

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.752 of 2019
DATE OF DECISION:-27.03.2019

UMA SHANKAR

...PETITIONER...

V.

STATE OF HARYANA AND ORS.

..RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Amit Choudhary, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioner-complainant has laid challenge to order dated 18.12.2018 of the trial court, whereby his application under Section 319 Cr.P.C. to summon the private respondents No.2 to 4 as additional accused, was dismissed.

In nutshell, daughter of the petitioner was found dead in the intervening night of 27/28.11.2017. The complainant through police was informed in the night itself that his daughter Pummi Pandey @ Mimi Pandey has been murdered by her husband. On receipt of this information, the complainant immediately rushed to the matrimonial house of his younger daughter Neha, residing near the matrimonial house of her deceased daughter namely, Pummi Pandey @ Mimi Pandey and inquired from her grand-daughter Kavya Pandey, aged 6 years, who narrated that her mother Pummi Pandey @ Mimi Pandey was hit by her father with a

hammer. Accused-Virender was torturing his wife, at the behest of private respondents No.2 to 4, who are his parents and brother.

On these broad allegations, FIR No.1084, dated 28.11.2017 was registered. During investigation, husband of deceased namely, Virender was found guilty and private respondents were found innocent. Therefore, they were placed in column No.2 of the report under Section 173 (2) Cr.P.C. However, during trial, the complainant after his examination as PW-1 and his minor grand-daughter PW-2 Kavya Pandey, aged 6 years, moved application under Section 319 Cr.P.C. through prosecution for summoning private respondents as additional accused, which was dismissed, vide impugned order dated 18.12.2018.

Learned counsel contends that minor PW-2 Kavya Pandey, aged 6 years, specifically deposed that her father used to beat and torture her mother at the behest of private respondents. Therefore, it was incumbent for the trial court to summon private respondents as additional accused, inasmuch as, sufficient evidence had come on record to summon them.

Having given thoughtful consideration, this Court finds instant revision completely devoid of any merit for the reasons to follow:-

The statements of petitioner PW-1-Uma Shankar and grand-daughter PW-2 Kavya Pandey do not show any direct involvement of private respondents. Their statements qua them are hypothetical in the absence of any corroborative or cogent and convincing evidence.

Prior to the registration of the impugned FIR, complainant and her deceased daughter never lodged any complaint with the police about

her alleged torture or maltreatment by her husband or private respondents. It is normally seen that in a matrimonial dispute, the girl's side with a revengeful attitude implicate all the family members of bride-groom's side, falsely or otherwise.

That apart PW-2 minor Kavya Pandey is in the custody of the petitioner and she is only aged around 6 years. A child of such a tender age can easily be tutored by anyone. Therefore, her testimony as PW-2 in the absence of any cogent and convincing evidence on record at this stage, can only be termed as tutored one.

No new evidence was brought on record by the petitioner during trial over and above his allegations in the FIR against the private respondents, who were found innocent during investigation.

I have gone through the impugned order dated 18.12.2018 and find no illegality and infirmity in the same. Accordingly, the same is upheld and instant revision petition is dismissed.

27.03.2019

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(RAMENDRA JAIN)
JUDGE**whether speaking/reasoned:****Yes/No****whether reportable:****Yes/No**

