

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

**CRM M-35337-2016 (O&M)
Date of Decision : 29.04.2019**

Vishal Mittal and others

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. A.G.S.Dhillon, Advocate
for the petitioners.

Mr. Pawan Garg, AAG, Haryana.

Mrs. Kiran Bala Jain, Advocate
for respondent No.2.

RAJ SHEKHAR ATTRI, J. (Oral)

The above named petitioners have preferred the instant petition against the order dated 07.06.2016, passed by the learned Addl. Sessions Judge, Ambala vide which the revision petition filed by the complainant-respondent No.2 has been allowed and the petitioners have been summoned as additional accused to face trial in case FIR No.137 dated 30.06.2012, registered under Sections 498-A, 406, 506 IPC, at Police Station Sadar Ambala.

The marriage of Smt. Meenu Mittal-respondent No.2 and Sourabh Gupta/non-petitioner was solemnized on 23.03.2009. The FIR was lodged by respondent No.2 for the offences under Sections 498-A, 406, 506 IPC on the allegations that the petitioners were demanding dowry and maltreating her. It is specifically added that golden set, sari etc. was given to Smt. Santosh Gupta/non-petitioner, golden tops were given to petitioner Nos.2 and 3 and golden ring was given to petitioner No.1. It is stated that the co-accused were demanding more dowry and Rs.6,50,000/-.

During investigation, they were found innocent. However, an

application was moved under Section 319 Cr.P.C. which was dismissed vide order dated 24.02.2016, passed by the trial court. However, the said order was challenged by filing revision petition which was allowed vide order dated 07.06.2016, passed by the revisional court and thereby the trial court was directed to decide the application under Section 319 Cr.P.C. afresh while keeping in view the statement of PW1 Smt. Meenu Mittal. After considering the said statement and other material available on record, the application under Section 319 Cr.P.C. was allowed vide order dated 05.09.2016, passed by the trial court and the petitioners were ordered to summon.

This Court made efforts for reconciliation of the matter but those remained unsuccessful.

I have heard learned counsel for the parties and have gone through the record.

In **Hardeep Singh vs. State of Punjab and others 2014 (1) RCR (Criminal) 623**, Hon'ble Supreme Court has made the following observations:-

“In Dharam Pal's case, the Constitution Bench has already held that after committal, cognizance of an offence can be taken against a person not named as an accused but against whom materials are available from the papers filed by the police after completion of investigation. Such cognizance can be taken under Section 193 Cr.P.C. and the Sessions Judge need not wait till 'evidence' under Section 319 Cr.P.C. becomes available for summoning an additional accused ? Section 319 Cr.P.C., significantly, uses two expressions that have to be taken note of i.e. (1) Inquiry (2) Trial. As a trial commences after framing of charge, an inquiry can only be

understood to be a pre-trial inquiry. Inquiries under [Sections 200, 201, 202](#) Cr.P.C.; and under [Section 398](#) Cr.P.C. are species of the inquiry contemplated by [Section 319](#) Cr.P.C. Materials coming before the Court in course of such enquiries can be used for corroboration of the evidence recorded in the court after the trial commences, for the exercise of power under [Section 319](#) Cr.P.C., and also to add an accused whose name has been shown in Column 2 of the chargesheet. In view of the above position the word 'evidence' in [Section 319](#) Cr.P.C. has to be broadly understood and not literally i.e. as evidence brought during a trial."

In this case, specific allegations have been levelled against the petitioners in the FIR as well as in the deposition of PW1-complainant with regard to demand of dowry, entrustment of *istridhan* articles and maltreatment of the respondent-wife. A strong prima facie case is made out for the purpose of their summoning.

After going through the record, this Court is of the view that the impugned order does not suffer from any illegality, irregularity and infirmity and does not require any interference by this court and the same stands upheld.

As such, finding no merit in the instant petition, the same is dismissed.

However, nothing express in this order will affect the merits of the case.

29.04.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No