

114.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1679-2019 (O&M)

Date of decision:25.07.2019

BALJEET SINGH

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Gaurav Deep Goel, Advocate,
for the petitioner.

HARI PAL VERMA, J.

Petitioner-complainant has filed the present revision petition impugning the order dated 20.02.2019 passed by learned Additional Sessions Judge, Panipat, whereby his application filed under Section 319 Cr.P.C. through Assistant Public Prosecutor seeking summoning of Shakuntla wife of Raj Kumar as an additional accused, was dismissed.

Briefly stated, an FIR No.60 dated 13.03.2018 under Sections 304-B of IPC, Police Station Matlauda, District Panipat, was registered against the accused at the behest of the petitioner-Baljeet Singh. As per the FIR, the marriage of his daughter Anju was solemnized with the accused Anil Kumar on 06.06.2014. Sufficient dowry was given in the marriage. However, the accused Anil Kumar and his mother Shakuntla (mother-in-law of the deceased) were not happy with the dowry and immediately after marriage, the accused Anil Kumar and his mother Shakuntla started taunting her by saying that '*what she has brought from her parent's house*'. A son was

house, Anju had gone happily to her in-laws house with her husband and grand mother-in-law. On 12.03.2018, a message was received that Anju has committed suicide.

Counsel for the petitioner has argued that there are specific allegations against the accused Shakuntla sought to be summoned, but the trial Court has not appreciated this fact. Right from the date of marriage, husband and mother-in-law of the deceased taunted and humiliated the deceased for bring insufficient dowry. The petitioner, while appearing as a witness before the trial Court, has made a statement and specifically named Shakuntla (mother-in-law of his daughter). No other member of the husband's family has been roped in, which is sufficient to believe that it is only those accused who have participated in the crime have been named in the FIR, but still Shakuntla has not been summoned. On 11.03.2018 at the time of leaving the petitioner's house, the accused Anil Kumar and his mother Shakuntla had quarreled with the deceased, which clearly shows that the husband and mother-in-law used to torture the deceased. The petitioner suspects that Anil Kumar and his mother have hanged the deceased to death or she has committed suicide, as she was made to take the extreme step because of the atrocities given by the accused.

The trial Court has considered the application so filed by the complainant. Broadly speaking the allegation against the accused sought to be summoned is that they were not happy with the dowry given in marriage and for this reason, they used to taunt the deceased while saying that she belongs to beggar's family and in this manner, she was mentally tortured. The allegations so leveled in the FIR were looked into by the police during

innocent. Though the argument has been raised that there are specific allegations against the accused Shakuntla, but there is nothing on file to suggest that what kind of dowry was ever demanded by Shakuntla, mother-in-law of the deceased. There is no such specific reference of any date, time and month when such demand of dowry was made by Shakuntla. She has been named as an accused for the simple reason that she is mother-in-law of the deceased. No such detail has come forward as to in what manner the accused Shakuntla has harassed the deceased and what is the nature of atrocity caused to the deceased. The allegation levelled in the complaint by the complainant and his statement recorded before the court are contradictory.

Summoning of an accused is a serious offence. In Hon'ble Supreme Court in ***Pepsi Foods Limited and another Versus Special Judicial Magistrate and others-(1998) 5 Supreme Court Cases 749*** has held as under:

“Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. Magistrate has to carefully scrutinise the evidence brought on

record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

In ***Hardeep Singh Versus State of Punjab (2014) 3 SCC 92***, it has been held by the Apex Court that the degree of satisfaction for invoking Section 319 Cr.P.C. should be of more than a prima-facie case, as exercised at the time of framing of charge, but short of satisfaction to an extent that evidence, if not rebutted, may lead to conviction of the person sought to be added as accused.

In view of above, this Court finds that summoning of a person as an additional accused in a criminal case is a serious matter. The courts are required to be very cautious to deal with the issue as to whether a person is to be added as additional accused or not. Though the power under Section 319 Cr.P.C. to summon additional accused is discretionary, but it should be exercised judicially and very sparingly.

Accordingly, this Court does not find any illegality in the order passed by the court below.

Dismissed.

Since the main petition has been dismissed, no separate order is required to be passed in the application i.e. CRM-21486-2019 seeking condonation of delay.

(HARI PAL VERMA)
JUDGE

25.07.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No