

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

**Criminal Revision No.3455 of 2017  
Date of Decision:-17.07.2019**

Prem Lata

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present:- Mr. Deepak Girotra, Advocate  
for the petitioner.

Mr. Sanjay Kumar Saini, AAG, Haryana.

Mr. Ashwani Gaur, Advocate  
for respondents No.2, 4 and 7.

Mr. Chanderhas Yadav, Advocate  
for respondent No.3.

Respondent No.8 passed away (as per order dated 28.2.2019  
and his name has been deleted from Memo of Parties).

Mr. Harish Bhardwaj, Advocate  
for respondent No.9.

**MANOJ BAJAJ J.(Oral)**

Prem Lata-complainant has preferred this revision petition to challenge the order dated 08.9.2017 passed by the trial Court, whereby application under Section 319 Cr.P.C. filed by her for summoning Ram Niwas, Shanti Lal, Rajesh, Ramesh, Anil, Ramji Dass and Master Sada Ram as additional accused in case FIR No.28 dated 04.4.2015, under Sections

306 and 506 read with Section 34 IPC, registered at Police Station GRP, Rohtak, was dismissed.

The facts leading to the present revision petition are that the FIR was registered on the statement of complainant, wherein it was alleged that her husband Vijay Kumar Bajaj was running the medical store at Gohana, who was simultaneously engaged in the business of property as well. The partners in the business of property, namely, Shanti Lal Nambardar, Village Gharwal, District Sonapat and his four sons namely Rajesh, Suresh, Ramesh and Anil played a fraud and usurped approximately 80-90 lacs and one house of her husband. On 31.12.2014, husband of complainant was called at Village Garhwal on the pretext of returning the money, where he was given intoxicant drink in the liquor and no money was given to him. In this transaction, firm, namely Ramji Dass & Sons also refused to pay the amount and resultantly, the amount payable by victim to Sadaram Punia, Master Ballu, Master Dayanand and Master Balraaj Mann could not be paid. The complainant further submits that they have to receive payment of Rs.2,00,000/- from Dr. Ram Niwas Mudgil and on 01.4.2015, Dr. Ram Niwas Mudgil called her and her husband to the hospital and firstly gave Rs.50,000/- and snatched the same on the ground that once Shanti Lal has refused to make the payment to you, so, he will also not pay the same and said that we could not cause any harm to him. It was narrated that the husband of complainant became mentally upset, who left the house on 3.4.2015 by saying that those who have to pay the amount to him have not paid the money and were threatening and his life was

useless. He left the house at noon and did not return. It was alleged that the husband of complainant committed suicide and abetment was attributed to the persons named in the FIR. On these broad allegations, the FIR was registered.

The investigation was carried out and the police filed the final report only against Suresh s/o Shanti Lal, whereas other persons named in the FIR were found innocent. After commencement of the trial, the prosecution adduced its evidence and examined the complainant Prem Lata as PW1. In her deposition, she reiterated her version as given in the complaint/FIR and thereafter an application was moved by her under Section 319 Cr.P.C. for summoning the private respondents as additional accused.

The trial Court after examining the material on record, proceeded to dismiss the application and aggrieved against the said order, the present revision petition has been filed.

Learned counsel for the petitioner has contended that the complainant has specifically named all these persons in the complaint, whereupon the FIR was registered. According to him, during investigation a suicide note was also recovered, wherein the names of the persons mentioned in the complaint were given by victim himself. It is argued that there is sufficient material on record to suggest that the private respondents had also contributed towards the abetment, which had driven the victim to commit suicide. He submits that the impugned order deserves to be set aside and the application filed by the petitioner/complainant under Section

319 Cr.P.C. deserves to be allowed.

On the other hand, the prayer is vehemently opposed by the private respondents. Learned counsel appearing for the private respondents submit that the trial Court has carefully examined the material and has relied upon the law on the subject while declining the prayer of the complainant in support of the application under Section 319 Cr.P.C. It is seriously doubtful that whether the suicide note was signed by the victim himself as the FSL Report is not in favour of the prosecution. It is pointed out that the FIR does not contain the consistent stand of the complainant and the reading of the same clearly indicates that the victim was under debts as he had to make the payment to Sadaram Punia etc.

Learned counsel for the parties have been heard and with their able assistance I have perused the impugned order.

Perusal of the impugned order reveals that the application filed under Section 319 Cr.P.C. (Annexure P-3) simply contains the fact that the private respondents were not arrested by the police, particularly, when there was specific allegations against them and challan was filed only against Suresh. Further, it was mentioned that there is evidence on record and therefore they be summoned. The application does not raise any ground except the averment that all these persons were also named in the complaint and in the evidence before the Court. During the course of arguments, the counsel for the petitioner has produced the suicide note, wherein the victim had allegedly named various persons from whom he was to receive the money. It was not disputed that the victim was also under debts as he was

to make the payment to various persons also. The trial Court has relied upon the FSL Report to observe that there is nothing on record to show that the signatures on the said suicide note were of the victim. The relevant portion of the trial Court order dated 08.9.2017 reads as under :-

*“9. Coming to another material available on record. The Panchayat writing Ex.P3 is another document as relied upon by the prosecution and similarly suicide note Ex.P5. The panchayat writing though consist that some amount was agreed to be paid by one Shanti Lal to Vijay Kumar but there is no version in that writing indicating that the persons sought to be summoned ever either instigated or compelled the person Vijay to take extreme step of committing suicide. Moreover, the report of Forensic Laboratory on the aspect of signature of deceased over suicide note Ex.P5, is not in favour of the prosecution as handwriting experet has not recorded categoric opinion that the signature of suicide note tallied with the specimen of admitted signature of the deceased person. The said other material available on record is again neither enough nor sufficient to be included within the definition of legal evidence to summon the said persons as additional accused. In case **Kailash vs. State of Rajasthan and Anr. 2908 (2) RCR (Criminal) 200** the Hon'ble Apex Court held that a person can only be summoned as additional accused if the Court finds that some legal evidence had come on record and from that evidence it strongly appears to the Court that the concerned person has committed some offence. It was held that the word “appears” is not to be taken lightly and it would not be suffice to have some evidence available on record to justify the summoning of*

*some person as additional accused.”*

It is clear from the above that the trial Court has carefully examined the material on record while dismissing the application under Section 319 Cr.P.C. Therefore, the impugned order dated 08.9.2017 passed by the trial Court does not suffer from any irregularity or illegality warranting interference by this Court. Resultantly, the revision petition fails and is hereby dismissed.

It is made clear that the observations made herein above shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available evidence on record.

July 17, 2019  
Vijay Asija

( MANOJ BAJAJ )  
JUDGE

Whether speaking/reasoned  
Whether Reportable

Yes / No  
Yes / No