

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

CRR No.1646 of 2019 (O&M)

Decided on:- July 15, 2019.

Gurjant Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Preetwinder Singh Dhaliwal, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present criminal revision impugning the order dated 10.05.2019 passed by learned Additional Sessions Judge, Sri Muktsar Sahib, whereby the application under Section 319 Cr.PC filed by the prosecution seeking summoning of respondent No.2 Sukhjit Kaur alias Penty daughter of Balkaran Singh, resident of village Madhir, Tehsil and District Sri Muktsar Sahib, as additional accused to face trial, was dismissed.

Learned counsel for the petitioner has argued that Sukhjit Kaur, who is a sister-in-law of deceased Jaspreet Kaur has actively participated in the commission of crime. The police had not taken into consideration the evidence against her and wrongly found her innocent. Since other witnesses of the prosecution have supported the case of the prosecution and have specifically named Sukhjit Kaur in active participation, the application under Section 319 Cr.PC has wrongly been dismissed by the trial Court despite there being sufficient evidence on record.

While referring to the judgment of Hon'ble Supreme Court in ***Hardeep Singh Versus State of Punjab (2014) 3 SCC 92***, learned counsel for the petitioner has argued that there are allegations against Sukhjot Kaur to face trial, but the trial Court has ignored the evidence solely on the reason that she has been found innocent by the police. Merely because the police found respondent No.2 innocent is no ground to dismiss the application under Section 319 Cr.P.C.

I have heard learned counsel for the petitioner.

Respondent No.2 Sukhjot Kaur is married sister-in-law of deceased Jaspreet Kaur. The marriage of respondent No.2 took place on 04.12.2015. Thus, as on date i.e. 13.04.2018, when Jaspreet Kaur died, respondent No.2 was already married. The police had conducted a thorough investigation in the case, but no evidence has come against her. Thus, the allegation that she also used to harass and to give beating to Jaspreet Kaur (since deceased) on account of demand of dowry, cannot be accepted.

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’s (case)** (supra), 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.

Therefore, this Court does not find any illegality in the impugned order dated 10.05.2019 passed by the trial Court and no interference is warranted with the same.

Accordingly, affirming the impugned order dated 10.05.2019 passed by learned Additional Sessions Judge, Sri Muktsar Sahib, present criminal revision, being devoid of any merit, is dismissed.

July 15, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No