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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-11882-2018 (O&M)

Date of Decision : May 14, 2019

Narinderpal

.... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. Swarn Singh Tiwana, Advocate
for the petitioner.

Mr. Rajat Bansal, AAG, Punjab

Mr. Pawan Kumar Sharma, Advocate,
for respondent no.2.

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SHEKHER DHAWAN, J.

Present revision petition is directed against the order dated 19.11.2018 passed by learned Additional Sessions Judge, Fatehgarh Sahib whereby application to summon Jashanjot Joshi as an additional accused in case bearing FIR No.42 dated 18.05.2017 under Sections 120B, 302 IPC registered at Police Station Amloh, was dismissed.

2. Facts relevant for the purpose of decision of the present revision petition; that complainant, Narinder Pal reported to the police that Kiranjit Joshi used to harass his *bhabhi*, namely, Paramjit Kaur and Kiranjit Joshi usually called her brother Jashanjot Joshi son of Sulekh Chand and her cousin Sandeep alias Sunny through phone call and they all, in

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connivance with each other, used to give beatings to his nephew Hari Pal. About three years ago, Kiranjot Joshi had thrown out Paramjit Kaur from the house after giving her beatings, upon which Paramjit Kaur had started residing at her parental house. Kiranjot Joshi had also thrown Hari Pal out of the house after giving beatings to him about 6/7 months ago.

3. On 18.05.2017, at about 4 PM, the complainant was going to his house on foot from bus stand and when he reached in the street in front of the house of Kiranjot Kaur and his nephew Hari Pal, he heard noises from the house and when he went inside the house, he found that his nephew Hari Pal was lying on the floor of the bedroom and there was injury marks on the neck underneath the ears and his nephew Hari Pal was found dead. The complainant was certain that Kiranjot Joshi, in connivance with Balwinder Kumar alias Pappu, Jashanjot son of Sulekh Chand and Sandeep alias Sunny had killed his nephew Hari Pal by strangulating him. He noticed that on seeing him, Kiranjot Joshi entered in the bedroom and went in the bathroom. The complainant thereafter came to the street and raised noise, upon which the people gathered there. He informed the incident to his *bhabhi*, Paramjit Kaur and reported the matter to the police. On the basis of that, police investigated the matter and challan was presented against Kiranjot Joshi, Balwinder Kumar alias Pappu and Sandeep alias Sunny whereas Jashanjot Joshi was kept in column No.2. Subsequently, an application under Section 319 Cr.P.C. was filed for summoning of Jashanjot Joshi as an additional accused on the statement having been made by the complainant and on the basis of that prayer was made to summon Jashanjot Joshi as an additional accused.

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4. Learned trial Court after considering the material available on the file ordered that no case is made out to summon Jashanjot Joshi as an additional accused and dismissed the application filed under Section 319 Cr.P.C. Hence, the present revision petition against the said order.

5. At the time of arguments, learned counsel representing the petitioner contended that as per the first information report, available with the Police, it had come that initially his *bhabhi*, Paramjit Kaur used to call her brother Jashanjot Joshi and cousin Sandeep alias Sunny whenever Kiranjit Joshi used to harass her. As such, there was specific allegation against Jashanjot Joshi also in the first information report available with the police. Similar is the deposition of Narinder Pal before the Court as PW-1, but learned trial Judge has completely ignored this fact while deciding application under Section 319 Cr.P.C. and as such, the present revision petition be accepted and the impugned order be set-aside.

6. Learned counsel representing respondent No.2 contended that as per the documents available on the file, i.e. enquiry report and disclosure statement under Section 27 of the Evidence Act, Annexures R/1 and R/2 respectively, no case is made out to summon Jashanjot Joshi as an additional accused and learned trial Judge has rightly dismissed the application under Section 319 Cr.P.C. and the present revision petition is liable to be dismissed.

7. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case, this Court is of the considered view that the petitioner has come with the plea that as per first information report, available on the file, on 18.05.2017, there were certain

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allegations against Jashanjot Joshi as well that Paramjit Kaur used to call her brother Jashanjot Joshi and Kiranjit Joshi used to harass her. In the same FIR, complete description is about the incident of 18.5.2017 when murder of Hari Pal had taken place. However, the FIR Annexure P/1, itself makes it ample clear that the version of the complainant is regarding two different stages. The earlier version regarding harassing by Kiranjit Joshi to Paramjit Kaur and calling of Jashanjot Joshi by Paramjit Kaur was much prior in time than the alleged date of occurrence dated 18.5.2017. As per the complainant himself, even there is no connivance on the part of Jashanjot Joshi to commit the murder of Hari Pal, if the entire version as per FIR is taken to be correct. Similar is the deposition of Narinder Pal as PW-1 before the Court. More so, the police had investigated the matter and put Jashanjot Joshi in column No. 2 only. As per the enquiry report, Annexure R/1, Jashanjot Joshi was working as a Peon in the office of Deputy Commissioner, Fatehgarh Sahib. Hari Pal was addicted to liquor and used to maltreat Kiranjit Joshi after taking drugs. On 18.5.2017, Jashanjot Joshi was going to Baweja Hospital, Ropar for taking medicine for epilepsy and when he reached in front of the shop of Babla Tent House at Bus Stand, Kalaur, he suffered an attack and fell down. Jashanjot Joshi remained present there since morning till 5.00 PM in the evening with Santosh Kumar whereas the incident in this case had taken place at 4.00 PM and as per enquiry report by Superintendent of Police (Investigation), Fatehgarh Sahib (Annexure R/1), Jashanjot Joshi was not found to be involved or having any connivance with the accused in the case of murder of Hari Pal.

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8. Taking all the above facts into consideration, this Court is of the considered view that learned trial Judge has rightly exercised the discretion lawfully vested in it by not summoning Jashanjot Joshi as an additional accused in this case. There are no grounds to interfere in the impugned order dated 19.11.2018 passed by learned Additional Sessions Judge, Fatehgarh Sahib.

9. Resultantly, the present revision petition stands dismissed in the above terms.

(SHEKHER DHAWAN)
JUDGE

May 14, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes