

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

CRM M-26153 of 2018 (O&M)

Date of Decision: November 03, 2020

Lalita Dixit

.....Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. R.S. Rai, Sr. Advocate with
Ms. Amanpreet K. Sabharwal, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

Mr. Aalok Jagga, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

The petitioner Lalita Dixit has come up in this petition under Section 482 of the Code of the Criminal Procedure seeking quashment of the order dated 08.05.2018 passed by the Court of learned JMJC, Jhajjar, allowing application of the prosecution under Section 319 Cr.P.C., and, thus, summoning

the petitioner as an additional accused to face the trial before the Court.

Heard Mr. R.S. Rai, Sr. Advocate assisted Ms. Amanpreet K. Sabharwal, Advocate for the petitioner, Mr. Baljinder Virk, DAG, Haryana and Mr. Aalok Jagga, Advocate for respondent No.2.

A case by way of FIR No. 43 dated 14.05.2016 under Sections 498-A, 406 and 506 IPC was registered with Police Station Women Jhajjar (Haryana) against accused Ram Niwas Dixit, Lalita Dixit, Tasvir @ Babli and Abhishek Dixit. The allegations were levelled by complainant Meenaxi @ Meenu alleging that a marriage between her and Abhishek Dixit took place on 14.12.2015 as per the Hindu rites and ceremonies. The complainant Meenaxi @ Meenu claims that sufficient dowry articles comprising of cash, valuables and gold ornaments were given at the marriage. The complainant and Abhishek Dixit accused were earlier divorcees. After the marriage, the complainant alleged that her in-laws never allowed her to visit her parental house nor was permitted to talk to her parents on mobile phone. There are insinuations against the accused alleging that the husband often abused her and so the other accused. It is claimed that after she stayed with her parents for 06 days and on her return was told by the accused that the complainant was a character less lady and that they would rest only after they are relieved of her. The allegations hover around

that she was not allowed peace of mind at her matrimonial home and was also physically assaulted and was ill-treated throughout the period of her stay and was asked to bring 07 lacs in cash as a knee operation in the family was to be performed. The complainant has alleged that all the family members often ill-treated her and gave her threats accompanied by physical and mental abuse leading to registration of the present case.

During the course of investigations all except accused Abhishek Dixit the husband of the accused were found innocent. The prosecution, thereafter, moved an application under Section 319 Cr.P.C. for summoning persons placed in Col. No. 2 of report under Section 173 Cr.P.C. and which qua Ram Niwas father-in-law and Tasvir @ Babli sister-in-law stood dismissed while against present petitioner Lalita Dixit it was allowed and she was summoned to face trial for commission of these offences.

Appreciating the submissions of the two sides. The law on exercise of powers under Section 319 Cr.P.C. have been detailed at length in a catena of case law. On behalf of the petitioner reliance has sought to be placed on **Brijendra Singh and others Vs. State of Rajasthan 20147(3) R.C.R. (Criminal) 374** to drive home the point that such a power under Section 319 Cr.P.C. can be exercised when sufficient evidence and material comes before the Court during the trial which propagates the claim of the prosecution that powers under

Section 319 Cr.P.C. ought to be exercised and which evidence needs to be strong and cogent. Though much reliance has sought to be placed by the learned State Counsel on **Hardeep Singh Vs. State of Punjab 2014 3 SCC 92** on behalf of the respondent to drive home the point that throughout hearing strong circumstances and evidence have come about against the petitioner.

The Apex Court in **Hardeep Singh case** (supra) has set at rest the controversy revolving around the exercise of powers under Section 319 Cr.P.C. whereby it has been held as under:-

“99. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of Cross-Examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under [Section 319 Cr.P.C.](#) In [Section 319 Cr.P.C.](#) the purpose of providing if ‘it appears from the evidence that any person not

being the accused has committed any offence' is clear from the words "for which such person could be tried together with the accused." The words used are not 'for which such person could be convicted'. There is, therefore, no scope for the Court acting under [Section 319](#) Cr.P.C. to form any opinion as to the guilt of the accused".

From this all, it illustrates that the Courts should refrain from exercising its powers under Section 319 Cr.P.C. and which needs to have a strong element of strong circumstances towards the guilt of the person with reasonableness of conviction. However, in the present case, since the filing of the written complaint there are only vague and ambiguous allegations against the petitioner and which is bereft of finer details. Neither any date, time and place of any such incident accompanied with details of the same are forthcoming qua the petitioner. The allegations are apparently of routine nature much towards the husband to which not much attribution is there against the mother-in-law but rather one could perceive from these allegations is what one accosts in a middle class Indian household whereby the bride is unable to adjust in the new atmosphere of her in-laws' family. The own case of the complainant shows that both the husband and wife were earlier divorced and, therefore, demands of dowry apparently does not conceive in such a situation. A detailed minute study of the

complaint and the evidence does not figure out what dowry was given, demanded or misappropriated by the petitioner and how the petitioner could be summoned under Section 406 IPC is anybody's guess. Since the allegations are highly unsubstantiated and vague, even applicability of offence under Section 498-A and 506 IPC do not materialize. The Court below has certainly mere on the asking of the prosecution considered that the petitioner happens to be the mother-in-law who clearly in our system of matrimony is the unfortunate villain and on this assumption without there being concrete and positive evidence strong enough to show her culpability had exercised its powers under Sections 319 Cr.P.C. which apparently were uncalled for at this juncture, in view of the lack of cogent and reliable evidence.

In the light of foregoing discussion, the impugned order certainly is misuse of process of Court and certainly needs to be set-aside by way of acceptance of the instant petition.

Ordered accordingly.

November 03, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No