

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40507-2018

Date of Decision : January 27, 2020

Karim.....Petitioner

Versus

State of Haryana..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. Manoj K. Tanwar, Advocate
for the petitioner.

Mr. D.R.Singla, DAG, Haryana,
assisted by SI Baldev Singh.

Mr. Gautam Dutt, Advocate
for Juhru, Sonam and Rijwan.

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MANJARI NEHRU KAUL, J.

Prayer in this petition is for setting aside the impugned order dated 12.07.2018 (Annexure P1) passed by the Addl. Sessions Judge, Nuh in case FIR No. 270 dated 09.07.2017 under Sections 304-B, 498-A, 406, 323 and 34 IPC registered at Police Station Tauru whereby the application under Section 319 Cr.P.C. filed by the petitioner for summoning Juhru son of Lallu, Sonam d/o Juhru and Rijwan son of Deenu as additional accused was dismissed.

As per the contents of the FIR which was registered on the statement of PW1 complainant-Karim Khan, brother of the deceased Rukseena, the marriage of his sister-Rukseena was solemnized with Aamir.

and silver etc. However, the accused including the respondents Juhru, Sonam and Rijwan were dissatisfied and subjected the deceased to continuous torture and harassment. All the efforts made by the complainant and other members of his family to settle the matter with the accused proved futile. On 09.07.2017 the complainant was telephonically informed that his sister-Rukseena had hanged herself to death. Thereafter, on the statement of the complainant-Karim Khan, FIR No. 270 dated 09.07.2017 under Sections 304-B, 498-A, 406, 323 and 34 IPC was registered at Police Station Tauru.

During the investigation, the investigating agency found accused-Juhru (father-in-law), Sonam (sister-in-law) and Rijwan (brother-in-law) innocent and placed them in Column No.2 and the challan was filed only against the husband-Aamir and mother-in-law-Akhlima. When the complainant stepped into the witness box as PW1, he reiterated the allegations levelled against all the accused including respondents Juhru, Sonam and Rijwan. An application under Section 319 Cr.P.C. was moved by the complainant to summon respondents Juhru, Sonam and Rijwan as additional accused which was dismissed vide impugned order dated 12.07.2018 by the learned Additional Sessions Judge, Nuh.

Learned counsel for the petitioner has vehemently argued that the FIR in question was registered without any delay, on the same day of occurrence wherein all the accused including respondents Juhru, Sonam and Rijwan were specifically named and there were specific attributions qua each of them of subjecting his deceased sister to mental and physical torture on account of demand of dowry. It was urged that the court while dismissing the application under Section 319 Cr.P.C. failed to appreciate

that though the sister-in-law Sonam was married but she was residing in very close vicinity to the matrimonial home of his deceased sister-in-law. Lastly, it was urged that the trial Court misread the evidence appearing on record against the respondents and erred in dismissing the application under Section 319 Cr.P.C. despite the fact that there existed sufficient evidence to *prima facie* show the involvement of the respondents in the commission of offence under Sections 304-B, 498-A, 406, 323 and 34 IPC.

Learned counsel for respondents Juhru, Sonam and Rijwan, on the other hand, vehemently argued that it was a case wherein the entire family of the husband, had been falsely implicated. It was urged that there were only vague allegations levelled against the said accused and it was very evident that in the absence of any specific allegations against them, the court below had rightly dismissed the application under Section 319 Cr.P.C. filed by the complainant. It was also submitted that there was an improvement made by the complainant while stepping into the witness box as PW1 inasmuch as in the FIR which was recorded after the occurrence in question he had not named the accused Juhru, Sonam and Rijwan and had only mentioned them as father-in-law, sister-in-law and brother-in-law, whereas during his testimony as PW1 he had named the sister-in-law and brother-in-law by giving out their respective names.

I have heard learned counsel for the parties and perused the impugned order as well as the other material on record.

A bare reading of the FIR as well as the testimony of the complainant during the trial as PW1 reveals that the allegations which have been levelled against respondents-Juhru, Sonam and Rijwan are exactly the same which were levelled against accused-Aamir (husband) and Akhlima

(mother-in-law). Hence, the case of Juhru, Sonam and Rijwan cannot be distinguished in any manner from that of the accused-Aamir and Akhlma, who are already facing trial. Moreover, respondents Juhru, Sonam and Rijwan cannot derive any benefit from the fact that in the FIR their names were not mentioned and they were only referred to, as father-in-law, sister-in-law and brother-in-law. The fact remains, as admitted by the parties before this Court as well, Sonam and Rijwan are the only sister-in-law and brother-in-law respectively of the deceased. Hence, it cannot by any stretch of imagination be said to be a material improvement made by the complainant.

The basic ingredient to invoke Section 319 Cr.P.C. is a reasonable satisfaction of the court that sufficient grounds exist for summoning person(s) as additional accused. I have thus no hesitation on the basis of evidence led in allowing the instant petition filed by the petitioner for summoning Juhru, Sonam, and Rijwan as additional accused. Resultantly, the order dated 12.07.2018 passed by the Additional Sessions Judge, Nuh (Annexure P1) is set aside.

It is made clear that nothing contained in this order shall be construed as an expression of opinion on the merits of the case.

27.01.2020
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(MANJARI NEHRU KAUL)
JUDGE

Note: Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No