

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

**CRR-1400-2019
Decided on : 16.01.2020**

Dhakeli Devi

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Sarfraj Hussain, Advocate
for the petitioner(s).

Mr. Ashish Sanghi, DAG, Haryana.

Mr. Deepender Singh, Advocate
for respondents No.2 & 3.

MANJARI NEHRU KAUL, J. (Oral)

The instant revision petition has been preferred against the impugned order dated 27th February, 2019, passed by the learned Additional Sessions Judge, Fast Track Court, Faridabad (for brevity 'trial Court'), whereby the application under Section 319 Cr.P.C. was dismissed.

It has been contended by the learned counsel that the learned trial Court fell in error in not appreciating that the complainant/petitioner while deposing before the Court as a prosecution witness had specifically named the private respondents, Vinod and Laxmi @ Anju and had levelled allegations of harassment *qua* them. Hence, the learned trial Court ought to have summoned the private respondents to face the trial.

Learned counsel for the respondents on that contrary submitted that on the face of it, it was clearly discernible that the complainant was trying to falsely implicate both the respondents even though both of them had been residing at Delhi much before the marriage of the daughter of the

complainant with the co-accused and had in fact never ever resided at House No. Q-387, AC Nagar, Faridabad, where allegedly the occurrence took place. Hence, it was submitted that the investigating agency had rightly, in the absence of any cogent and reliable material, during their investigation, placed both the respondents in column No. 2.

I have heard learned counsel for the parties and perused the impugned order passed by the learned trial Court.

It cannot not be overemphasized that the power to summon an additional accused under Section 319 Cr.P.C. is an extraordinary power, which should be exercised sparingly and only if there exist some compelling reasons.

However, coming to the case in hand, a perusal of the contents of the FIR, which was registered on the statement of the complainant, reveals that *qua* the petitioner no specific allegation has been levelled. Admittedly, both the co-accused (respondents No.2 & 3), who no doubt are the brother-in-law and sister-in-law of the deceased had been residing separately in Delhi much prior to the marriage of the deceased with the accused – Umesh. Except for vague allegations that both the respondents No.2 & 3 namely Vinod and Laxmi @ Anju killed the deceased in connivance with the other co-accused, no specific allegation *qua* ill-treatment, much less, any demand of dowry finds mention *qua* both of them in the FIR, which was registered soon after the occurrence in question. Even the investigating agency during investigation did not find any complicity of both the accused (respondents No.2 & 3, respectively) in the commission of offence under Section 304-B IPC and placed them under Column No.2 of the challan.

No doubt, if after taking into consideration the totality of the facts and circumstances of the case, the Court is satisfied that *prima facie* summoning of the additional accused is necessitated, there should be no hesitation for the Court to exercise its judicial discretion, and if there is reasonable prospect of the case against the newly added accused not ending in their conviction for the offences charged with, Court should refrain from adding them as accused. Hence, in the absence of any qualitative evidence against the petitioner, the trial Court rightly dismissed the application under Section 319 Cr.P.C. vide order dated 27th February, 2019. This Court, therefore, finds no reason to exercise its revisional jurisdiction.

Consequently, the instant revision petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

January 16, 2020

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*