

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

CRR-3009-2019 (O&M)
Decided on : 06.03.2020

Anil Kumar

..... Petitioner

Versus

Santro Devi & others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vikas Bishnoi, Advocate
for the petitioner.

Manjari Nehru Kaul, J.

CM-35263-2019

For the reasons mentioned in the application, same is allowed and the delay of 158 days in filing the revision petition is condoned.

CRR-3009-2019

Instant revision petition has been preferred against the order dated 03.04.2019 passed by the Addl. Sessions Judge, Bhiwani vide which the application under Section 319 Cr.PC filed by the petitioner for summoning the respondents No.1 to 4 as additional accused was dismissed.

Prosecution case was set in motion on the complaint of PW-2 Anil Kumar, complainant (brother of the deceased Manju Bala), who in his statement Ex.P2 alleged that his deceased sister Manju Bala was in a relationship with accused Krishan Kumar for 13 months preceding the date of occurrence i.e. 15.06.2018. In his statement, it was further alleged by the complainant that his deceased sister Manju Bala was subjected to

harassment by the accused-Krishan Kumar, his mother Santro Devi-respondent No.1, wife Sunita-respondent No.2, his brothers Raj Kumar and Subhash- respondents No.3 and 4 respectively. The complainant also alleged that his deceased sister, who had been living with accused-Krishan Kumar was not permitted to meet him whenever he went to meet her. Hence, it was in this background due to the harassment meted out to his sister, she ended her life by drowning in the water tank, adjoining the house of respondent No.3-Raj Kumar.

During investigation of the case, accused Krishan Kumar was arrested while the other accused i.e. respondents No.1 to 4 were found innocent and placed in column No.2. After the accused Krishan Kumar had been chargesheeted, he was put to trial. During the recording of the prosecution evidence, when complainant Anil Kumar stepped into the witness box as PW-2, an application under Section 319 Cr.PC was moved for summoning the respondents No.1 to 4 as additional accused, which came to be dismissed by the Court below leading to the instant revision petition.

Learned counsel for the petitioner has vehemently argued that the complainant while recording his statement Ex.P2 had spelt out specific roles qua each of the four respondents qua the harassment, which they had meted out to his deceased sister. However, the police had incorrectly recorded his statement. It was alleged that he had also specifically stated while recording the above statement that accused Krishan Kumar would often blackmail his deceased sister that if she left his house, he would not hesitate to make her photographs public, which had been clicked with him.

Respondents No.1 to 4, on the other hand, had been pressurizing his deceased sister to leave the house. Not only this, respondent No.2-Sunita would taunt his deceased sister that she was a 'keep' of her husband. It was lastly contended that since all the respondents were residing in the same house as accused Krishan Kumar, they were as much guilty of abetting the death of his sister as Krishan Kumar.

I have heard learned counsel for the petitioner and gone through the evidence and other material available on record.

A Court must use the powers under Section 319 Cr.PC cautiously and sparingly primarily to advance the cause of criminal justice, however, the same should not be used as an instrument to cause harassment to a person(s), who may not be prima facie involved in the commission of crime in question.

The submission of the complainant Anil Kumar that his initial version was incorrectly recorded by the police, would be of no avail to him. Had it been so, he had a remedy of approaching the Court below by way of a complaint by giving his own version. It is not hard to discern that the complainant Anil Kumar has made material improvements while appearing as PW-2 during trial, which are at variance with his initial statement Ex.P2. In his initial statement Ex.P2 he alleged that his deceased sister was not allowed to meet him and his family however, while stepping into the witness box as PW-2 he came up with an altogether different version that his deceased sister would stealthily meet him and make telephonic calls to him. Further, it is the admitted case of the complainant himself that his deceased sister along with accused Krishan Kumar had filed a petition

before this Court on 18.05.2017 seeking protection of their life and liberty against him and his family. Not only this, in the aforementioned petition, she had stated that she wanted to live with Krishan Kumar and respondent No.2-Sunita, wife of Krishan Kumar.

In the circumstances and as a sequel to the above, this Court does not find any ground to exercise its revisional powers to set aside the well reasoned impugned order dated 09.08.2016 passed by the Appellate Court. Accordingly, the present revision petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

06.03.2020
sonia

Whether speaking/reasoned:	Yes
Whether reportable :	No