

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRR-709-2021 (O&M)
Decided on : 03.08.2021

Lala Ram and anr.

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rangat Ghirra, Advocate
for the petitioners.

Manjari Nehru Kaul, J.(Oral)

CRM-22790-2021

This is an application under Section 482 Cr.PC for exemption from filing the certified copies of Annexures P-5 to P-7 and for placing on record the same being deposition and cross-examination of PW-3, Pw-4 and PW-6.

Application is allowed and Annexures P-5 to P-7 are taken on record subject to all just exceptions. Office to tag the same at appropriate place.

Main case

Challenge in the instant petition is to the order dated 09.04.2021 passed by the Addl. Sessions Judge, Palwal vide which petitioners have been summoned to face trial under Sections 498-A, 304-B, 302 read with 34 IPC.

Brief facts of the case may be noticed as thus, on the statement

of the complainant, case FIR No.245 dated 01.06.2019 under Sections 302, 304-B and 34 IPC, 1860 was lodged against his son-in-law accused Manish (husband of deceased) and his parents. During investigation only accused Manish was challaned while his parents i.e. petitioners were found innocent and placed in Column No.2. During trial, when the complainant stepped into witness box as PW-6, he reiterated the allegations levelled in the FIR in question against not only accused Manish but also against the present petitioners of continuously subjecting his deceased daughter to harassment and torture for getting insufficient dowry at the time of marriage. Thereafter, an application under Section 319 Cr.PC was moved by the complainant for summoning the petitioners i.e. petitioner No.1 – Lala Ram and petitioner No.2 – Sheela. Vide order dated 09.04.2021, trial Court allowed the application under Section 319 Cr.PC and summoned both the petitioners to face trial for the commission of offence punishable under Sections 498-A, 304-B, 302 read with 34 IPC.

Learned counsel for the petitioners vehemently urged that the trial Court fell in error while passing the impugned order inasmuch as it failed to appreciate that both the petitioners were found innocent by the investigating agency during investigation and were thus, rightly placed in Column No.2. While inviting the attention of this Court to the FIR in question, learned counsel submitted that totally vague and general allegations had been levelled against the petitioners in the FIR in question. He further submitted that on the day of alleged occurrence, petitioner No.1 was not present at home but was at his work place and even petitioner No.2 had gone to New Delhi to visit her brother. Hence, they had no role to play

in the death of the deceased i.e. their daughter-in-law Savita.

Heard learned counsel as well as gone through the material available on record including the impugned order.

Learned counsel for the petitioners has laid a great deal of stress on the fact that both the petitioners were found innocent during investigation by the investigating agency and placed in Column No.2, hence, the trial Court was not justified in summoning them as an accused under Section 319 Cr.PC.

It would be apposite to reproduce Section 319 Cr.PC, which is as under:

319. Power to proceed against other persons appearing to be guilty of offence.

- 1. Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.*
- 2. Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.*
- 3. Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.*
- 4. Where the Court proceeds against any person under sub-section (1), then-*
 - a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;*

b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

A bare reading of Section 319 Cr.PC leaves no manner of doubt that any person including a person, who may even have been dropped or found innocent by the police during investigation can be summoned to face trial, if some evidence showing their involvement in the offence comes to light before the Court during trial. The submission of learned counsel that since the petitioners had been found innocent during investigation by the investigating agency, they should not have been summoned to face trial on an application moved under Section 319 Cr.PC, thus, cannot be accepted as the very purpose and objective for which Section 319 Cr.PC was enacted would stand defeated.

The point that requires consideration for summoning the petitioners under Section 319 Cr.PC is whether from the evidence led during the trial, a prima facie case of constituting commission of an offence against them can be said to be made out or not. On a perusal of both the FIR in question, which was lodged promptly as well as the deposition of the complainant when he stepped into the witness box as PW-6, it cannot be said that any improvement had been made by the complainant with respect to the alleged roles played by both the petitioners in the crime in question. It is clear from the contents of the FIR as well as the deposition of the complainant that specific roles had been attributed to the petitioners of subjecting the deceased to mental and physical torture alongwith accused

Manish.

So far as the plea of *alibi* taken by the petitioners is concerned, it is a matter to be appreciated only at the time of trial. This Court cannot be expected to delve into it, at this stage.

In the circumstances, this Court does not find any infirmity or illegality in the impugned order dated 09.04.2021 passed by the Court below.

Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

03.08.2021

sonia

Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No