

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

(1) CRR-3927-2018(O&M)

Sita Ram

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRR-3941-2018(O&M)

Smt.Anju

...Petitioner

Versus

State of Haryana

...Respondent

Date of Decision:-16.2.2021

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sanjeev Manrai, Sr. Advocate with
Mr.S.S. Kamboj, Advocate
for the petitioner in CRR-3927-2018.

Mr.Sunil Chaudhary, Advocate
for the petitioner in CRR-3941-2018.

Mr.Tanuj Sharma, AAG, Haryana.

Mr.Sachin Mittal, Advocate
for the complainant.

H.S. MADAAN, J.

Cases taken up through video conferencing.

Aggrieved by order dated 20.11.2018 passed by Additional

Sessions Judge (Exclusive Court), Bhiwani summoning them as additional

accused while allowing application under Section 319 Cr.P.C. moved by complainant Rishi Kumar through Public Prosecutor, petitioner Sita Ram has filed **CRR-3927-2018** and petitioner Smt.Anju has filed **CRR-3941-2018** praying that the revision petitions be accepted, the impugned order be set aside and application under Section 319 Cr.P.C. so moved be dismissed qua them.

Briefly stated, the facts of the case are that complainant Rishi Kumar son of Sh.Ram Bhagat, resident of village Mirch, Tehsil and District Charkhi Dadri had reported the matter to the police contending that his youngest sister Priyanka was married with Satya Narain @ Mahesh son of Bahader Singh, resident of Lajpat Nagar, Bhiwani on 12.3.2018 and sufficient dowry articles had been given at that time; however, after about one month of marriage Satya Narain @ Mahesh and his family members, namely, mother - Badamo, sister-in-law - Anju, sister - Manju started harassing and taunting Priyanka for not having dowry upto their expectation; Anoop Singh, husband of Manju used to behave with Priyanka in a very inappropriate manner; the complainant and his family members counselled husband and in-laws family of Priyanka and matter was resolved for the time being but not for a long period; on 6.7.2018 at about 6:00/7:00 p.m. Priyanka told them on telephone that her husband and in-laws had given merciless beatings to her in connection with demand of dowry and they were going to kill her; Priyanka was weeping badly and requested the complainant to come and rescue her; after this telephonic conversation, the complainant along with his family members and Panchayat members went to matrimonial home of Priyanka

at night and found that door and windows of the room were closed from inside; on peeping through the narrow space, Priyanka was found hanging from ceiling fan; the door was forced open and the dead body of Priyanka was took down; there were marks of violence on her body. The complainant had alleged that husband and in-laws family of Priyanka had killed her since Priyanka could not get the demands of more dowry raised by them fulfilled from her parental family.

After registration of the FIR, investigation in the case started. Postmortem examination was got performed on the dead body of deceased Priyanka. On completion of investigation, Sita Ram, Anju, Manju and Anoop were found to be innocent and they were not sent up to face trial. On presentation of challan in the Court of Illaqa Magistrate, after commitment proceedings when case was received in the Court of Additional Sessions Judge, Bhiwani, formal charge was framed against the accused and statement of complainant/eye-witness Rishi Kumar was recorded. Thereafter, application under Section 319 Cr.P.C. for summoning of Sita Ram, Anju, Manju and Anoop as additional accused was filed, which was accepted by the trial Court and Sita Ram son of Bahadar Singh and Anju widow of Naresh were ordered to be summoned as additional accused under Sections 304-B/498-A and 34 IPC.

The said order passed by Additional Sessions Judge (Exclusive Court), Bhiwani is under challenge in both the revision petitions.

Notice of the revision petitions was given to respondent – State, which has appeared through counsel. The complainant has also put

in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise. The impugned order passed in this case is quite detailed and well reasoned. The law on the point has been discussed referring to various judgment passed by Apex Court as well as this Court. The landmark judgment on the subject by the Apex Court i.e. **Hardeep Singh Versus State of Punjab and others, 2014(1) RCR(Criminal) 623** has been taken into consideration. The aspect of Sita Ram and Anju having been declared innocent during the investigation has been discussed and by giving valid reasoning, such finding has been rejected for convincing reasons. For ready reference, the operative part of the order is being reproduced as under:

14 I have also carefully gone through the record and the report prepared by the police under Section 173 Cr.P.C.. However, I found that no cogent and plausible explanation has been given as to why dever Sita Ram and bhabhi Anju were not challaned while they were involved from the very inception in the commission of the offence and were specifically named by the complainant in the first information report. The documents, on the basis of which, Sita Ram and Anju were declared innocent revealed that Anju had applied

for electric connection on 14.06.2018 which was just some days before the death of Priyanka on 6.07.2018 and likewise, Sita Ram was allotted quarter in April 2018 but he had left his posting station on fateful day after office hours. The allegations leveled by the complainant regarding alleged demand of additional dowry and torturing of Priyanka in relation thereto in furtherance of common intention are stated specifically by the witness PW5 before the police and in the court. At the cost of repetition, it is prima facie evident from a conjoint reading of written complaint and court statement of PW5 that there are specific instances attributed against Sita Ram and Anju. As such, from the evidence on the file, it appears that the deceased was tortured and illtreated in conspiracy with them by the accused persons who are facing the trial and their complicity is clear. If the version of the complainant is believed, there are reasonable prospects of their conviction as well.

As regards the judgments referred to by learned counsel for the revisionist i.e. **Periyasami and others Versus S.Nallasamy, 2019(2) RCR(Criminal) 556** that does not help the petitioners in any way since the petitioners are not only specifically named in the FIR, rather there are clear allegations that they had treated the deceased with cruelty. Though they had been given clean chit by the investigating agency but the trial Court by cogent reasons has found such inference to be wrong. The deceased had died an unnatural death within four months of her marriage. The petitioners are members of in-laws family of the deceased. They have been summoned for various offences including offence under Section

304-B IPC.

Section 113-A of Indian Evidence Act provides that when the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Section 113-B of Indian Evidence Act deals with presumption as to dowry death dilating that when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

With both the petitioners being named in the FIR with specific allegations of harassment of deceased by them and their treating her with cruelty in connection with demand of dowry coupled with provisions of Sections 113-A and 113-B of Indian Evidence Act leading to drawing of presumptions against them, their summoning as additional accused is justified and no fault can be found with the same.

As regards the next judgment i.e. ***Hardeep Singh Versus State of Punjab and others, 2014(1) RCR(Criminal) 623*** by Constitutional Bench of the Apex Court, that judgment has been taken into consideration by the trial Court and it has been duly discussed in para

No.10 of the impugned order.

The trial Court found the case in hand to be covered by parameters laid down for summoning of a person as additional accused and I do not find myself in disagreement with the trial Court on that point.

As regards the judgment *Brijendra Singh and ors. Versus State of Rajasthan, 2017(3) RCR(Criminal) 374* by the Apex Court, this judgment also does not help the petitioners in any manner. Sometimes the investigation conducted is shoddy and not above board and investigating agency for various reasons and considerations try to save some persons from prosecution. Therefore, result arrived at by the investigating agency is not the final word in the matter. The Court can certainly examine such inference reached by the investigating agency and not just to put its seal of approval on the conclusion arrived at by the investigating agency. In the instant case, as already observed, the trial Court has doubted the inference reached by the investigating agency that petitioners are not involved in the incident. Valid reasoning for such doubt has been given. Then there are presumptions against the present petitioners. Though not established on record, nevertheless even if it is taken that petitioners were not there at the spot when the deceased had been murdered/had committed suicide, the harassment and cruelty on their part towards the deceased even before unnatural death of Priyanka would make them liable for criminal offences and they cannot simply come up with straight faces and say that since their presence at the spot at the relevant time is not proved, therefore, they be declared innocent. The petitioners have just been summoned as additional accused. They have got an opportunity to present their view

point by way of cross-examination of prosecution witnesses, taking a specific stand while being examined under Section 313 Cr.P.C. and leading evidence in defence. Their merely summoning as additional accused does not mean that they are not left with any stage/option for proving their innocence. This judgment does not help the petitioners in any manner.

As regards the next judgment i.e. **Brindaban Das and others Versus State of West Bengal, 2009(1) RCR(Criminal)672** by the Apex Court, that judgment has also been taken into consideration by the trial Court while passing the impugned order and it is so discussed in para No.9. This judgment also does not come to rescue of the petitioners.

I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it. The order is certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned order.

Finding no merits in the present revision petitions, the same stand dismissed.

16.2.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No