

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

112

CRR-1417-2021

Date of decision: 12.11.2021

Jai Kishor

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.S. Dhull, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the order dated 12.10.2021 vide which the application filed under Section 319 Cr.P.C. for summoning respondents No.2 to 6 as additional accused to face trial in FIR No.181 dated 30.06.2019 under Sections 304-B, 498A, 406 and 34 IPC registered at Police Station Sector 37, Gurugram, was dismissed.

The FIR in question was registered at the instance of the petitioner i.e. father of the deceased. Respondents No.2 to 6, who happen to be the married brothers-in-law and their wives as well as a married sister-in-law of the deceased, were found innocent during investigation and placed under column No.2. However, husband, father-in-law and mother-in-law of the deceased were challaned by the investigating agency and subsequently sent up to face trial for the aforementioned offences.

Learned counsel would contend that the trial Court dismissed the application under Section 319 Cr.P.C. for summoning the private respondents in a mechanical manner without as much as appreciating that there were allegations in the FIR in question that the

deceased had been subjected to mental and physical cruelty by all of them for not getting dowry as per their expectations. It was also submitted that the investigating agency did not properly investigate the case and wrongly declared the private respondents to be innocent during investigation.

Heard and perused the material on record including the impugned order.

The submissions made by learned counsel for the petitioner are bereft of any merit for the reasons to follow:-

A perusal of the cross-examination done on the petitioner clearly reveals that it was his admitted case that the brothers-in-law of his deceased daughter i.e. respondents No.2 and 3 were not only already married with respondents No.4 and 5 at the time of the marriage of his deceased daughter but were working separately. Still further, it was not denied by the petitioner that respondent No.6, married sister-in-law of the deceased, was not even living in the vicinity of the matrimonial home of the deceased but living at Rajasthan.

Still further, a perusal of the FIR in question as well as deposition of the complainant-petitioner as PW-2 during trial further reveals that only general allegations of mental and physical harassment have been attributed to them and no cogent evidence much less any other material has been led or placed on record with respect to the alleged cruelty meted out to the deceased.

Since powers under Section 319 Cr.P.C. are extraordinary it becomes all the more imperative that while exercising these powers principles of the rule of law and the basic tenets of criminal law

jurisprudence are kept intact. Mere mention of the name of a person along with allegations in the FIR or/and while stepping into the witness box during trial would not be sufficient enough a ground to summon him to face trial along with other accused. The Constitutional Bench of the Supreme Court in *Hardeep Singh Vs. State of Punjab and others : 2014(3) SCC 92* while dealing with the degree of satisfaction required for invoking the powers under Section 319 Cr.P.C. has held that no doubt the Court has to see whether a prima facie case is made out or not against a person sought to be summoned under Section 319 Cr.P.C., however, at this stage a much stronger evidence is required than possibility of complicity. In the absence of any such satisfaction, the Court should normally refrain from exercising its discretionary powers under Section 319 Cr.P.C.

As a sequel to the above, the present petition being bereft of any merit is dismissed.

12.11.2021

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No