

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-209-2022 (O&M)
Date of Decision:- 9.2.2022

Sanjeet

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Lalit Kumar, Advocate for the petitioner.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner-complainant assails order dated 28.9.2021 passed by learned Additional Sessions Judge, Panipat vide which an application filed by the complainant under Section 319 Cr.P.C. seeking summoning of Charan Singh (father-in-law), Satwanti (mother-in-law) and Rinku (brother-in-law) of deceased Pooja (sister of petitioner-complainant) as additional accused in a case arising out of FIR No.5 dated 14.1.2021, Police Station Sadar Panipat, District Panipat under Sections 302 and 120-B IPC has been dismissed.
2. The FIR in question was lodged at the instance of petitioner wherein it is alleged that marriage of his sister Pooja was solemnized on 19.9.2019 with Vikas and at the time of marriage, they had given dowry to her sister. However, the in-laws family of his sister Pooja including her husband, father-in-law, mother-in-law and brother-in-law were not satisfied and used

to harass her for having brought insufficient dowry. They used to harass her so as to press upon their demand of a car and a cash amount of ₹ 5 lacs. The complainant's sister used to disclose about the same telephonically to the complainant and other members of their family. On 15.3.2020, the complainant's father gave an amount of ₹1 lac to Pooja's husband with the request not to maltreat Pooja. However, shortly thereafter, the in-laws of Pooja reiterated their demand of car and gave beatings to her. Although, the complainant tried to reason out with the in-laws of his sister Pooja but to no avail. The complainant, thereafter, brought Pooja to her parental home where a panchayat was convened in which the in-laws of Pooja also participated and apologized in panchayat while assuring that they would not demand any car or money. Upon such assurance having been given, Pooja accompanied Vikas to her matrimonial home on 4.12.2020.

3. It is alleged that on 13.1.2021 at about 7:40 p.m., Pooja's father-in-law Charan Singh called complainant's father telephonically intimating that an accident had taken place with Pooja in the fields and asked them to come immediately to Civil Hospital. Upon receipt of said information, the complainant and other members of his family rushed to Civil Hospital where they came to know that Pooja has been killed by her husband and by her in-laws on account of non-fulfillment of their demand of dowry and in order to save themselves, they were projecting the incident to be an accident.
4. The dead body of Pooja was subjected to cross-examination and as per the postmortem report, as many as 6 injuries were found on her person out of which 5 were in the nature of Abrasions or Contusions and one i.e. injury no. 6 was in the nature of an incised wound measuring 7.5 X 2 cm on the neck.

The cause of death was opined to be hemorrhage and shock due to sharp injury over neck.

5. The matter was investigated by the police and upon conclusion of investigation, a report under Section 173 Cr.P.C. was filed in the Court vide which Vikas (husband of Pooja) and his girl friend Anchal Sharma were challaned whereas the father-in-law, mother-in-law and brother-in-law namely Charan Singh, Satwanti and Rinku were given a clean-chit.
6. After framing of charges against the accused for offences under Sections 302 and 120-B IPC, the statement of complainant Sanjeet was recorded wherein he reiterated the allegations as levelled in the FIR. After the statement of the complainant had been substantially recorded, the Public Prosecutor moved an application under Section 319 Cr.P.C. for summoning respondents No. 2, 3 and 4 i.e. father-in-law, mother-in-law and brother-in-law as additional accused which had been declined by the trial Court vide impugned order dated 28.9.2021. It has been noticed by the trial Court that respondents No. 2, 3 and 4 were residing separately and were having separate ration cards.
7. The learned counsel for the petitioner has submitted that the impugned order suffers from various infirmities inasmuch as despite there being specific allegations against respondents no. 2, 3 and 4 as regards demand of dowry and harassment of the deceased and also of giving beatings to her which had been duly reiterated by the complainant when he stepped into the witness box, the trial Court has chosen not to summon them as additional accused. It has been submitted that there is no inconsistency in the version put forth in the FIR and the statement of the complainant recorded in the Court and as

such, respondents no. 2, 3 and 4 ought to have been summoned so as to face trial alongwith the remaining two accused.

8. I have considered the submissions addressed before this Court and have also perused the petition as well as the documents annexed with the same.
9. It is no doubt correct that as per FIR specific allegations have been levelled against Vikas i.e. husband of deceased Pooja as well as against father-in-law, mother-in-law and brother-in-law. However, during the course of investigation, the police found that infact it is a case where the accused Vikas was having an affair with a lady named Anchal Sharma since the year 2015 i.e. much before the marriage of Vikas was solemnized with Pooja in the year 2019. The accused in his disclosure statement disclosed that he had been meeting said Anchal Sharma even after his marriage and had been frequently visiting Delhi and had been making physical relations with her which was to the disliking of Pooja leading to a matrimonial discord amongst them. He further stated that he had left his wife at her parental home several times but panchayats used to be convened and under the pressure of panchayats, he had to bring back his wife to her matrimonial home. He further disclosed therein that on 15.12.2020, he had gone to Delhi to meet Anchal Sharma where they conspired to eliminate Pooja and it was decided that Vikas would take his wife Pooja to a deserted place near the fields and would kill her and would project the incident to be a case of robbery. It is further stated that he accordingly took his wife to a deserted place on 13.1.2021 and also took a knife with him and as soon as it got dark, he hit knife on the left side of Pooja's neck and also self-inflicted some injuries. He stated that after half an hour when his father reached at the spot

and inquired as to what had happened, he disclosed that he as well as his wife had been inflicted injuries by three motorcycle borne assailants and that they had snatched away the ear rings and the anklets of Pooja and also his chain. Vikas and his wife were taken to hospital by Vikas's father and his uncle where Pooja was declared dead. Subsequently, Vikas ran away from Panipat and was later arrested on 15.1.2021 and the knife used for commission of offence was recovered at his instance. The factum of recovery of the knife used for commission of offence at the instance of Vikas is in tune with the disclosure statement of Vikas and which does inculcate Anchal Sharma as well who has been duly challaned by the police. As far as respondents no. 2, 3 and 4 i.e. father-in-law, mother-in-law and brother-in-law are concerned, no doubt allegations have been levelled against them in the FIR and also in the statement recorded in the Court but it is not uncommon that in such like cases where there is some kind of matrimonial discord, there would be a tendency of involving maximum number of persons from husband's family as accused.

10. Hon'ble the Supreme Court has very recently i.e. on 8.2.2022, while dealing with a matter pertaining to Section 498A IPC in Criminal Appeal No. 195 of 2022 titled as Kahkashan Kausar @ Sonam and others versus State of Bihar and others, while relying upon (2018) 10 SCC 472 - Rajesh Sharma and others Vs. State of UP and another; (2014) 8 SCC 273 - Arnesh Kumar Vs. State of Bihar and another; (2010) 7 SCC 667 - Preeti Gupta and another Vs. State of Jharkhand and another; (2012) 10 SCC 741 - Geeta Mehrotra and another Vs. State of UP and another; and (2018) 14 SCC 452 - K. Subba Rao V. The State of Telangana has quashed the FIR in respect of

offences under Sections 341, 323, 379, 354, 498A read with Section 34 IPC against the relatives of the husband of victim. The Hon'ble Supreme Court, while noticing a plethora of judgments concluded as follows :-

“The above-mentioned decisions clearly demonstrate that this court has at numerous instances expressed concerned over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

11. In the present case, the apparent reason for matrimonial discord between the deceased and her husband was the extra-marital affair of the husband which he himself is admitting with Anchal Sharma who has been challaned alongwith Vikas. The FIR is an attempt to cause harassment to the in-laws of Pooja with whom the complainant and his family apparently did not enjoy good relations.
12. In view of the aforesaid discussion, this Court does not find any ground for interfering with the impugned order and the same is found to be well reasoned and is upheld.
13. It is, however, made clear that if, at any subsequent stage, there is some cogent and convincing evidence before the trial Court indicating

involvement of the respondents No. 2, 3 and 4, it shall be open to the prosecution to move an application under Section 319 Cr.P.C. afresh.

9.2.2022

(GURVINDER SINGH GILL)
JUDGE

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Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No