

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

CRR-398-2022 (O&M)

Date of decision: 03.03.2022

Kela Devi

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Namit Khurana, Advocate for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. A.G. Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present revision petition is to the order dated 02.02.2022 passed by the learned Additional Sessions Judge, Yamuna Nagar, whereby the petitioner has been summoned as an additional accused under Section 319 Cr.P.C., to face the trial in case bearing FIR No. 161 dated 27.10.2019, registered under Sections 306 and 34 IPC, at the Police Station Sadhaura, District Yamuna Nagar.

Learned counsel for the petitioner submits that post registration of the FIR, the matter was investigated by the Investigating Agency, wherein the petitioner was found innocent and even the challan was presented against co-accused Manju and Krishna Devi only. It is further submitted that the charge under Section 306/34 IPC was also framed against the said co-accused and thus, the version of the complainant recorded in his examination-in-chief, while appearing as PW1 is nothing, but a result of concoction and deliberations.

It is further submitted that the learned trial Court, while allowing the application under Section 319 Cr.P.C. moved by the prosecution, did not

record any degree of satisfaction as is required in such cases and, therefore, believing the version of the complainant, ipso-facto, smacks of capricious approach on the part of the trial Court. In support of his contentions, learned counsel for the petitioner relies upon the judgement passed in Brijendra Singh and others Vs. State of Rajasthan, 2017(3) RCR (Criminal) 374.

However, I do not find any merit in the said submissions made by the learned counsel for the petitioner.

It would be relevant to reproduce Section 319 Cr.P.C. which reads as under:-

“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 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.”*

Thus, as per the above provision, the trial Court may summon any person to face the trial as an accused if there is sufficient material available against the said person during trial to proceed against him.

The trial Court, while passing the impugned order has specifically dealt with the standard of proof and satisfaction, before summoning any person as an additional accused. The elaborate findings of the trial Court could not be assailed by the counsel for the petitioner in any manner. The allegations against the petitioner are very serious that she along with the co-accused had first allured the deceased to enter into illicit relations with Manju Devi and thereafter, they had started blackmailing him, pursuant to which the deceased had committed suicide. Still further, in the present case, the suicide note of the deceased was duly recorded by the Doctor, which fact would, prima-facie, show that a dying person, would not tell a lie.

In view of the above, I find no infirmity in the order passed by the trial Court. The order is well reasoned.

The petition is dismissed.

The observations made above are only for the purpose of decision of the present petition and the trial Court shall proceed with the matter, uninfluenced by the same.

(HARNARESH SINGH GILL)
JUDGE

03.03.2022

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No