

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

128

**CRR No.2874 of 2022
Date of decision:20.12.2022**

Poonam

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Devender Arya, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUVIR SEHGAL J.

By way of instant petition filed under Section 401 of the Code of Criminal Procedure, 1973 (for short “the Code”), the complainant-petitioner has approached this Court challenging the order dated 24.11.2022 passed by learned Additional Sessions Judge, Narnaul, whereby, an application filed under Section 319 of the Code for summoning respondents No.2 to 7 as additional accused, has been rejected.

Briefly stating, facts leading to the filing of the petition are that FIR No.293 dated 27.07.2021 has been registered for offences under Sections 304-B and 498-A IPC at Police Station Kanina, District Mahendergarh on the complaint of Poonam stating that she and her sister Sarita were married on 08.02.2018 in the same family. After the death of her husband, in-laws started harassing them and they came to their parental home. With the intervention of panchayat, her sister was sent back to the

matrimonial home on 20.07.2021. A week later, they came to know about her suicide. When she and family members went to her in-laws house, they discovered that Sarita had been killed and request has been made for taking action against the accused, namely Ramphal, Sukhwanti, Sandeep, Pooja, Anil, Kamla and Ajit. During investigation, all the accused, except Anil, who is the husband of the deceased, were found innocent and final report was presented. Charge-sheet has been framed against accused-Anil, who is in custody and is facing trial. While the cross-examination of complainant-Poonam (PW2), Annexure P-5, was being conducted, an application was filed seeking to summon respondents No.2 to 7 as additional accused, which has been declined by the Trial Court, vide order impugned herein.

Counsel for the petitioner has urged that although specific allegations have been levelled against the private respondents, who have been named by the petitioner in the FIR as well as in her testimony and overt acts have been attributed to them, but they have neither been challaned nor summoned as additional accused.

Advance copy of the petition has been served upon the State.

Upon instructions, State counsel has assisted the Court.

I have considered the submissions made by counsel for the parties and examined the material placed on the record.

The legal proposition is well settled. Section 319 confers a discretionary and extra ordinary power on the Court, which is to be used sparingly and cautiously only where circumstances of the case so warrant.

There has to be a strong and cogent evidence against the accused, who are

sought to be summoned. Supreme Court in **Labhu Amratji Thakor and others Vs. State of Gujarat and another, 2019 (1) RCR (Criminal) 1**, has held that the Court cannot mechanically issue process against any person and it has to be consider the substance of evidence which has come before it.

Adverting to the facts of the present case, it deserves to be noticed that there are no allegations of demand of dowry against any of the accused in the FIR (Annexure P-1). It has been alleged that the deceased was harassed, but there is no specific allegation against the named accused. In her examination-in-chief, Annexure P-5, the complainant for the first time claimed that she as well as her deceased sister were maltreated and physically assaulted on account of non-fulfillment of demand of dowry. It has been deposed that her deceased sister used to telephonically inform her about the behaviour of her in-laws. The statement of complainant on oath is an improvement over the earlier version on the basis of which, FIR, Annexure P-1 has been registered. Complainant-petitioner, who is married in the same family, as her deceased sister, had been turned out alongwith her minor child from her matrimonial home after the death of her husband and is staying at her parental home. The allegation of harassment on account of dis-satisfaction over dowry appears to be motivated and the complainant has improved her version to involve the family of her in-laws in order to settle scores with them. This Court, therefore, does not find any reason to differ with the finding recorded by the Trial Court.

Finding no illegality or infirmity in the impugned order, this Court does not inclined to interfere with the same in the exercise of its revisional jurisdiction. Petition being without any merit is hereby dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case and the trial Court shall proceed to conclude the trial on the basis of evidence led before it uninfluenced by anything said hereinabove.

(SUVIR SEHGAL)
JUDGE

December 20, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes