

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

CRR-3373 of 2019

Date of decision : 21.12.2022

Rajpal and others

... Petitioners

Versus

State of Haryana and another

.. Respondents

CORAM : HON'BLE MRS.JUSTICE AMARJOT BHATTI

Present: Mr.Deepak Goyal, Advocate
for the petitioners.

Ms.Ambika Sood, Addl. AG, Haryana.

Amarjot Bhatti, J.(Oral)

Petitioners-Rajpal, Karambir, Rekha, Babli and Phuli Devi have filed the present revision against the impugned order dated 01.11.2019 vide which they have been summoned on application under Section 319 Cr.P.C. to face trial under Section 304-B IPC along with other accused.

The brief facts of the case are that a written application was addressed to the SHO, Police Station Gharaunda, Karnal by father of the deceased-victim that he had performed marriage of his daughter i.e. the victim with Dharambir son of Parkash on 08.06.2011. He had given dowry beyond his capacity. The victim was treated nicely in the matrimonial home for a period of about 01 year and thereafter, her husband and in-laws family started harassing her and even she was physically assaulted. The matter was brought to the notice of in-laws family of his daughter who apologized before them and in this way 3-4 years passed. The victim disclosed that her husband Dharambir had extramarital affairs with her sister-in-law/ Jethani-Rekha. They again visited the matrimonial home of her daughter and

Dharambir and Rekha tendered apology. They assured that this type of mistake will not be committed again. Since then, Raj Pal, Karambir, Rekha, Babli, Phulli Devi and her husband started beating the victim by alleging that she had earned bad name to their family by disclosing this fact outside the home. The victim visited Kithana and disclosed to her uncle (Chacha) Ram Kumar regarding the maltreatment given to her and the fact that the aforesaid persons were planning to kill her. Ram Kumar assured her that they would visit the matrimonial home on 10th or 11th of the month. However, the aforesaid persons colluded with each other and killed the victim. When they reached the hospital, no family member of her in-laws was present there. With these allegations, the FIR was registered.

In the case in hand, challan was presented against Dharambir who was charge-sheeted under Section 304-B, IPC. The recording of prosecution evidence was under progress. After the recording of statement of Rajnish, complainant as PW-3, the prosecution filed application under section 319 Cr.P.C. for the summoning of proposed accused persons. The said application was allowed vide impugned order dated 01.11.2019. Feeling aggrieved of this order, the present revision has been preferred.

I have heard the arguments advanced by learned counsel for the petitioners and learned counsel representing the State.

The counsel for the petitioners argued that after thorough investigation of the case, the petitioners were found to be innocent and they were kept in column No.2 of the challan report. Dharambir was charge-sheeted and the evidence was being recorded when the application under

Section 319 Cr.P.C. has been filed. The trial court merely on the basis of statement of the complainant recorded in chief as PW-3, the application under Section 319 Cr.P.C. was allowed. In fact, all the allegations leveled against the petitioners are vague and without any basis. The statement of complainant as PW-3 cannot be taken as a gospel truth. The victim was treated nicely in the matrimonial home. The allegations are false which were thoroughly inquired by the police during the investigation stage and the same were found to be false. The prosecution was required to lead sufficient evidence for the summoning of petitioners as accused on application under Section 319 Cr.P.C. The Court was also required to give cogent reasons for allowing the application. There was no sufficient evidence on record to summon the petitioners to face trial for the offence under Section 304-B, IPC. In fact, the impugned order has been passed by the trial court in a routine manner. The learned counsel for the revisionists in the grounds of revision has relied upon the authority of Hon'ble Supreme Court of India titled "**Michael Machado & another Vs. Central Bureau of Investigation and another**", reported as 2000(2) RCR (Criminal) 75 in which the guidelines were laid down for summoning of the accused on application under Section 319 Cr.P.C. It is prayed that the impugned order passed by the trial court is not justified. Therefore, the same may kindly be set aside by accepting the present revision.

On the other hand, learned counsel representing the State pointed out that the present petitioners were specifically named by the complainant at the time of lodging report to the police. The petitioners were

again named when the statement of the complainant was recorded as PW-3. All the petitioners maltreated the victim in the matrimonial home collectively which resulted into her unnatural death. However, the challan was presented only against the husband-Dharambir and the other accused named by the complainant were left without any justification. Therefore, by appreciating the facts of the case and the testimony of complainant recorded as PW-3, the petitioners were rightly summoned to face trial along with co-accused under Section 304-B, IPC. The revision preferred by the revisionists is without merits and the same may kindly be dismissed.

I have considered the arguments advanced before me. I have gone through the contents of the FIR which has been registered on the statement of father of the deceased-victim. As per the facts, the victim got married with Dharambir on 8.6.2011 and she died unnatural death on 10.03.2018. The FIR has been registered under the provisions of Section 304B IPC. As per the contents of FIR, the complainant had specifically named Rajpal, Karambir Jeth/brother-in-law, Rekha, Babli Jethani/sister-in-law, Phuli mother-in-law and Dharambir husband of the deceased/victim for maltreating her. The facts of the case indicate that there was continuous matrimonial dispute in the family which was pacified by the parents of the victim from time to time. The victim disclosed to her paternal family about the extra-marital affair of her husband Dharambir with her Jethani-sister-in-law, Rekha. As a result, her family members again visited the matrimonial home and protested, on this Dharambir and Rekha allegedly tendered apology. The victim was beaten up for disclosing their family matter to the

outsiders and bringing bad names to the family and ultimately, the victim died unnatural death. Therefore, right from the beginning, the present petitioners were named by the complainant. However, after investigation, they were kept in column No.2 of the challan report and only Dharambir was challaned for the offence under Section 304-B IPC. After the framing of charge-sheet, the statement of complainant was recorded as PW-3 where he again narrated the facts as mentioned in the FIR and thereafter, the application was filed under Section 319 Cr.P.C. which was allowed by the learned Additional Sessions Judge by passing the impugned order dated 01.11.2019. The learned trial court has considered the statement of the complainant which was recorded in the court on oath, naming the present petitioners for the unnatural death of his daughter. The application under Section 319 Cr.P.C. can be filed at any stage during the pendency of the trial for the summoning of additional accused. There is authority cited in 2014 AIR SCW 667 titled as “**Hardeep Singh Vs. State of Punjab**” (SC) (Constitution Bench), clubbed with other cases where it is explained the scope of exercise of power by the court under Section 319 Cr.P.C. After the commencing of trial against Dharambir accused when the statement of complainant was recorded on oath as PW-3, he named the present petitioners and attributed specific role to them and on that basis, the present petitioners were summoned to face trial under Section 304 B IPC. It is not the case that the complainant has given improved version to rope the present petitioners along with accused already facing trial. In fact, the statement of complainant is consistent right from the beginning when the FIR was

registered. All the petitioners were specifically named and specific role was also attributed to them regarding causing harassment and beating to the victim. The victim died unnatural death in the matrimonial home.

Therefore, considering the testimony of complainant recorded on oath as PW-3 and the facts and circumstances of the case, I find sufficient material on record to summon the present petitioners on application under Section 319 Cr.P.C. I do not find any illegality or irregularity committed by the trial court for the summoning of additional accused. Therefore, the impugned order dated 01.11.2019 passed by the trial court is accordingly upheld and the revision preferred by the revisionists is accordingly, dismissed.

The aforesaid observation is only for the purpose of deciding the present revision. The case will be decided on merits after recording of evidence.

21.12.2022
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(AMARJOT BHATTI)
JUDGE

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