

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

248

CRR-102 of 2020

Date of Decision:17.08.2023

Kala Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amrit Singh Kang, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab

JASGURPREET SINGH PURI, J. (Oral)

1. The present revision petition has been filed assailing the order passed by the learned Sessions Judge, Sangur, dated 22.11.2019 whereby the application filed by the prosecution under Section 319 of the Code of Criminal Procedure was decided. In the aforesaid impugned order, the prosecution had sought to summon two persons as additional accused, namely, Jasmail Singh @ Maili who is present respondent No.2 and one Debo Kaur. By way of impugned order, the application qua respondent No.2-Jasmail Singh was dismissed and qua the other co-accused, namely, Debo Kaur the application was allowed and she was summoned to face trial under Sections 302/34 IPC. The petitioner-complainant is aggrieved by the aforesaid impugned order to the extent that so far as respondent No.2 is concerned, qua him the application

under Section 319 of the Code of Criminal Procedure was erroneously dismissed by the learned Sessions Judge, Sangrur.

2. The present FIR was lodged in the year 2019 on the allegations that the sister of the complainant, namely, Usha Rani was already married with one Lachaman son of Jagtar Singh and thereafter she ran away with the co-accused Ranjit Singh who was also earlier married with one Preet Kaur. Thereafter, the sister of the complainant started living with Ranjit Singh in his house but thereafter the aforesaid Ranjit Singh started maltreating sister of the complainant and started beating her. In the FIR, there are direct allegations against the aforesaid co-accused Ranjit Singh and the aforesaid Debo Kaur who is mother of Ranjit Singh with regard to the commission of the present offence whereby the aforesaid Usha Rani had died. So far as the allegation against respondent No.2 Jasmail Singh is concerned, the only allegation against him in the FIR was that he had instigated Ranjit Singh and he is stated to be cousin of Ranjit Singh but no direct role has been attributable to the present respondent No.2 in the FIR. However, at the time of deposition before the learned Sessions Court as PW1 when the complainant however reiterated the allegations contained in the FIR but had also added that his sister Usha Rani was beaten up by Ranjit Singh, Debo Kaur and the cousin of Ranjit Singh i.e. Jamail Singh who is present respondent No.2.

3. The learned trial Court while considering the application under Section 319 of the Code of Criminal Procedure discussed the entire record available before him including the contents of the FIR, *challan* and the statement of the complainant and came to the conclusion that so far as respondent No.2 is concerned, who is the cousin of the aforesaid Ranjit Singh,

the prosecution was not able to make out a more than *prima facie* case for summoning him as an additional accused. The learned Sessions Judge relied upon a judgment of a Constitution Bench of the Supreme Court in **Hardeep Singh versus State of Punjab** (Criminal Appeal No.1750 of 2008, decided on 10.01.2014) in this regard and therefore qua respondent No.2 the application was dismissed. However, so far as the mother of the aforesaid Ranjit Singh, namely, Debo Kaur is concerned, she was summoned as an additional accused in view of the fact that specific allegations were made against her not only in the statement of PW1 but also in the FIR itself wherein her presence and allegations of beatings have been shown. But so far as respondent No.2 is concerned, no such allegations have been so stated in the FIR or any other record available and the learned Sessions Judge therefore dismissed the application qua respondent No.2.

4. Learned counsel for the petitioner-complainant submitted that the impugned order passed by the learned Sessions Judge, Sangrur was erroneous in view of the fact that a similar role was also attributable to respondent No.2 and the allegations against him were that he had instigated the aforesaid main accused, namely, Ranjit Singh and therefore he ought to have been summoned as an additional accused.

5. Mr. Ramdeep Partap Singh, learned Sr. DAG, Punjab has submitted that as per the FIR the only allegation against the present respondent No.2 was that he had instigated the co-accused Ranjit Singh and it was only because of the statement of PW1 that application under Section 319 of the Code of Criminal Procedure was filed qua him as well.

6. Both the learned counsels have submitted that now the trial of the

case is almost over and now the matter is fixed for pronouncement of the judgment.

7. I have heard learned counsel for the parties.

8. The present is a case where the petitioner-complainant has filed the present revision petition challenging the order passed by the learned Sessions Judge, Sangrur whereby the application moved by the prosecution under Section 319 of the Code of Criminal Procedure qua the present respondent No.2 has been dismissed. A perusal of the impugned order passed by the learned Sessions Judge would show that the learned Sessions Judge, Sangrur has, while referring to the judgment of a Constitution Bench of the Hon'ble Supreme Court in ***Hardeep Singh***'s case (supra), observed that the petitioner-complainant was not able to show any more than *prima facie* case against respondent No.2. It is a settled law that for the purpose of summoning of an additional accused, there has to be a case made out which should be more than *prima facie* case and there has to be very strong reason for summoning a person as an additional accused based upon the material available on record. However, in the present case, this Court does not find any illegality or perversity in the impugned order which has been passed by the learned Sessions Judge, Sangrur because as per the impugned order, the petitioner-complainant was not able to make out more than *prima facie* case so far as respondent No.2 is concerned. A perusal of the FIR would show that vague allegations have been levelled against respondent No.2 that he had instigated the aforesaid Ranjit Singh and apart from the above there is nothing on record to show as to how he was instrumental in the present offence. The mere fact that it has come up in the statement of PW1 complainant that his sister was

beaten up by Ranjit Singh, Debo Kaur and the present respondent No.2 Jasmail Singh @ Maili is not sufficient to summon respondent No.2 as additional accused in the absence of any strong and cogent material available on record. Apart from the aforesaid deposition which has come for the first time during deposition it appears that there is nothing on record to show the involvement of the aforesaid respondent No.2 in the present case.

9. In view of the aforesaid position, this Court does not find any infirmity or illegality in the impugned order passed by the learned Sessions Judge, Sangrur. Consequently, the present revision petition is dismissed being devoid of any merit.

(JASGURPREET SINGH PURI)
JUDGE

August 17, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No