

116 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR-241-2023  
Decided on : 23.01.2023

Munsha Singh

..... Petitioner

Versus

State of Punjab and other

..... Respondents

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Rahul Arora, Advocate  
for the petitioner.

\*\*\*\*

**Manjari Nehru Kaul, J.(Oral)**

Petitioner-complainant is impugning order dated 29.10.2022 passed by learned Sessions Judge, Fazilka vide which application dated 15.07.2022 (Annexure P-1) moved by him under Section 319 Cr.PC for summoning respondents No.2 to 5 to face trial as an additional accused, was dismissed.

Learned counsel for the petitioner *inter alia* contends that the Court below gravely erred in observing while passing the impugned order that it was because of anger and hatred that the petitioner had tried to implicate members of the in-laws family of his deceased daughter; further in the application dated 10.10.2019 moved by the petitioner-complainant before SSP, Fazilka, no specific allegations had been levelled against respondents No.2 to 5 and even the name of Santosh Rani – respondent No.5 had not been mentioned. Learned counsel has drawn the attention of this Court to the FIR (Annexure P-3) to urge that the observations made by

the Court in the impugned order was contrary to the contents of the FIR. Learned counsel has vehemently argued that it had been categorically alleged in the FIR that all the accused persons including respondents No.2 to 5 had been harassing his daughter Manjit Kaur (hereinafter referred to as deceased) by threatening to either throw her out of her matrimonial home or after killing her to perform the marriage of her husband i.e. accused Prem Singh with somebody else. Learned counsel still further submits that in the FIR it stood reflected that on the fateful day i.e. 01.10.2019, on receipt of information qua the death of his daughter, when the petitioner along with his relatives reached the house of the accused, all of them including the respondents were sitting near the dead-body of the deceased and there was no sign of any remorse or sadness on their faces. Still further, the accused lied to him that the deceased had died of heart attack. Learned counsel submits that on 03.10.2019 when the petitioner along with his family members went for collecting the ashes of the deceased for immersion, they made inquiries at their own level, and learnt that the deceased had not died of heart attack but had been murdered by all the accused including the respondents and thereafter hurriedly cremated so as to destroy all the incriminating material against them. Learned counsel also submits that while stepping into the witness box as PW-1, petitioner had reiterated all the allegations levelled against the respondents-accused, which fact was erroneously ignored by the trial Court. Learned counsel submits that no doubt, no postmortem was conducted on the dead body of the deceased, however, the conduct of the respondents-accused in hurriedly cremating the dead body went a long way to show that they were all active participants in

the murder of the deceased. Learned counsel lastly submits that all the circumstances when seen in its entirety left no manner of doubt about the active connivance and role of the respondents-accused in the murder of the deceased.

Heard learned counsel and perused the impugned order as well as material available on record.

The object behind Section 319 Cr.PC is to ensure that no one, who appears guilty escapes trial in relation to that guilt and at the same time an innocent should not be punished.

The powers conferred on the Court under Section 319 Cr.PC are extraordinary powers. The discretion to summon a person as an additional accused under Section 319 Cr.PC has to be thus, exercised prudently after giving due regard to the facts and circumstances of the case as well as the **evidence** led during trial. The term “evidence” appearing in Section 319 Cr.PC implies only legally admissible evidence from which the trial Court can derive a satisfaction that :

- (i) there does exist prima facie material to summon a person as an additional accused to face trial.
- (ii) the nature of the evidence adduced on behalf of the prosecution till then, if unrebutted, would lead to the conviction of the person(s) sought to be summoned as additional accused.

The allegations of the petitioner-complainant that the dead body of the deceased was hurriedly cremated so as to destroy evidence of murder is prima facie not borne out from the FIR, which was lodged by the

complainant after 07 days of the alleged crime. As per the case of the complainant himself, as contained in the FIR and also in his deposition in Court, he participated in the cremation as well as in the collection and immersion of the ashes of the deceased. Still further, as per his version “on enquiries made by him at his own level” he learnt on the 03.10.2019 when he went for collection of the ashes, that the deceased had been murdered by the accused including the respondents. Suffice to say neither on 03.10.2019 when the ashes were being collected, the complainant reported the crime to the police or any other authority nor even soon thereafter. It was only on the 07.10.2019 that the complainant approached the police and came up with the version as is forthcoming in the FIR (Annexure P-3).

In the case in hand, during investigation after the registration of the FIR in question, an inquiry was conducted wherein the respondent-accused were found to be innocent and rather it came to the fore that accused Prem Singh, husband of the deceased, suspected her character and on the intervening night of 30.09.2019/ 01.10.2019, he caught the deceased with some person in a compromising position in his house. Thereafter a scuffle ensued between him and the deceased as a result of which deceased fell down from the staircase and later on she was found dead on her bed in the morning. This Court would however, at this stage refrain from commenting on the case as set up by the prosecution so as to avoid any prejudice to the parties concerned.

In the above background, when neither any postmortem was conducted on the dead-body of the deceased nor ashes taken into possession by the police, the observations made by the trial Court in the impugned

order cannot be faulted with because it is not even the case of the complainant that the accused party had in anyway not allowed postmortem on the dead-body to be performed or the ashes of the deceased to be taken into possession for forensic or chemical examination.

This Court has no hesitation in observing that there is no evidence against the respondents-accused, who are sought to be summoned, to connect them with the crime in question.

As a sequel to the above, this Court does not find any error in the impugned order, which would warrant interference of this Court. Accordingly, the present revision petition stands dismissed.

23.01.2023  
sonia

(MANJARI NEHRU KAUL)  
JUDGE

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable :       | Yes/No |