

2023:PHHC:057682

CRR-1054 of 2023

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In the High Court of Punjab and Haryana at Chandigarh

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CRR-1054 of 2023

Date of Decision: 24.04.2023

Vikash

---Petitioner

versus

State of Haryana and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.A.Sheoran, Advocate
for the petitioner

Ms. Dimple Jain, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through the instant petition under Section 401 Cr.P.C. is seeking setting aside of order dated 21.2.2023 whereby Additional Sessions Judge, Charkhi Dadri has dismissed application under Section 319 Cr.P.C. of the petitioner seeking summoning of respondents No. 2 to 5 as additional accused.

2. The brief facts of the case are that on the complaint of petitioner, FIR No. 127 dated 14.6.2020 came to be registered under Section 306 IPC at Police Station, City District Charkhi Dadri. The police after completing investigation filed its report under Section 173 Cr.P.C. alleging commission of offence punishable under Section 306

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IPC. The petitioner moved an application under Section 319 Cr.P.C. seeking summoning of respondents No. 2 to 5 as additional accused. The application of the petitioner came up for consideration before Additional Sessions Judge, Charkhi Dadri who vide impugned order dated 21.2.2023 has dismissed the application.

3. Learned counsel for the petitioner inter alia contends that all the in-laws family members of the deceased were constantly harassing the deceased which compelled her to commit suicide, thus, respondents herein are equally responsible as husband of the deceased. The trial court has wrongly relied upon police report and dismissed application of the petitioner.

4. I have heard arguments of learned counsel for the petitioner and perused the record.

5. The relevant extracts of the impugned order read as:-

“9. Perusal of the record shows that instant FIR was registered on the written application filed by Vikas Kumar, brother of deceased, wherein, he alleged that his sister Pooja was married with accused Arun on 06.11.2011 and she is blessed with two children. Soon after the marriage, her in-laws started harassing the deceased for dowry and they used to demand money. On many times, their demand was fulfilled but despite that, mother-in-law, father-in-law Shiv Kumar, sister-in-law

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Bindia and brother-in-law Tarun taunted and harassing her for dowry. Today at about 12:25 a.m., accused Arun called the complainant and apprised that health of his sister is deteriorating and asked to come along with his mother, on which, complainant along with his mother came at Dadri and came to know that her sister Pooja was removed to Jai Hind Hospital and when they reached there, they came to know that deceased was removed to G.H., Dadri, on which, they reached at G. H. Dadri and came to know that her sister Pooja had expired. Her father-in-law Shiv Kumar disclosed to them that deceased had committed suicide by hanging. However, complainant has suspicion that her sister was forced to commit suicide by her father-in-law, mother-in-law, brother-in-law, sister-in-law and her husband, on which FIR was registered. However, during investigation, challan under Section 306 of IPC was filed only against accused Arun (husband) while mother- in-law, father-in-law, sister-in-law and brother-in-law were exonerated.

10. The complainant Vikash Kumar has levelled

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only general and vague allegations against the proposed accused in his written application moved before the police. Neither their role is specified nor it is explained how and in what manner they were harassing the deceased. When complainant stepped into witness-box as PW1 then he only reiterated his earlier allegations made in the written complaint moved before the police. No new facts or evidence has come on record against proposed accused. On such allegations, police has already exonerated the proposed accused while giving cogent reason in supplementary challan. It is mentioned in it that deceased Pooja and accused Arun were residing separately in a rented accommodation from year 2013 to 2016 and thereafter they started residing at third floor of their house separately from in-laws. Deceased Pooja had separate ration card and gas connection. It is further mentioned that sister-in-law of Pooja namely Savita is married in Panipat and used to come once in a year while brother-in-law Tarun was away from the house for his studies of MBBS from 2008 and father-in-law and mother-in-law were not having visiting terms with

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deceased PoojaThe matter was also enquired by DSP City Dadri who also found proposed accused as innocent. Thus, police has already exonerated the proposed accused while discharging their statutory duty. There is nothing on record to contradict the conclusion arrived at by the police. Hence, material available on record against proposed accused is not more than prima facie case required for exercising power under Section 319 of Cr. PC. which are extra ordinary powers and are to be used very sparingly. Hence, strong evidence against proposed accused is not available to fulfill test laid down in Hardeep Singh's case (supra).”

6. Power to summon anyone cannot be exercised mechanically. Criminal law cannot be put into motion at the whims and caprice of anyone. It causes mental and physical agony to a proposed accused. It is well known fact that conclusion of trial takes time and every time accused has to appear before the trial court. If a person is ultimately acquitted for having found innocent, it does not cause loss to the complainant whereas alleged accused suffers a lot during pendency of trial.

7. It is settled proposition of law that scope of revision is very limited. High Court while exercising power under Section 401

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Cr.P.C. is not supposed to carry out roving enquiry. There should be some prime facie illegality in the impugned order.

8. In the present case, the findings recorded by trial Court are neither factually nor legally wrong warranting interference of this Court.

9. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

24.4.2023

paramjit

Whether speaking/reasoned : Yes

Whether reportable : Yes/No