

125

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

CRM-M-24189-2022

Date of decision : 20.02.2023

SUMAN GOYAL

..... Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

.... Respondent

CORAM : HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. Chetan Bansal, Advocate for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab

AMARJOT BHATTI J. (ORAL)

1. The petitioner- Suman Goyal has filed petition under Section 482 Cr.P.C. for quashing of order dated 21.04.2022, Annexure P-3, passed by learned Additional Sessions Judge, Patiala whereby the learned Court has dismissed the revision filed by the petitioner and further quashing of order dated 15.09.2018 passed by the Court of Judicial Magistrate 1st Class, Patiala whereby the application filed by respondent No.2 through respondent No.1 under Section 319 Cr.P.C. for summoning of petitioner in FIR No.60 dated 18.06.2017 under Sections 406, 498-A IPC has been allowed.

2. The brief facts of the case are that FIR No.60 dated 18.06.2017 under Section 406, 498-A IPC was registered at Police Station Women, Patiala. Copy of FIR is Annexure P-5. After investigation challan was presented against Nikhil Goyal and Phool Kumar Goyal. Copy of challan report under Section 173 Cr.P.C. is Annexure P-6. Case was fixed for

prosecution evidence when the complainant through Additional Public Prosecutor for the State filed application under Section 319 Cr.P.C. for summoning of Suman Goyal as an additional accused. It was alleged that the complaint was filed against Nikhil Goyal, Phool Kumar Goyal and Suman Goyal. However, during investigation Suman Goyal accused was not arrayed as an accused. Ruchika Goyal the complainant has been examined as PW-1 where she has specifically narrated the entire incident and all the accused have been specifically named. Smt. Suman Goyal tortured the complainant for demand of dowry and also instigated the other accused who are already facing trial in this case. There are specific allegations against Smt. Suman Goyal as she actively participated in the commission of crime. It was prayed that in the interest of justice Smt. Suman Goyal be also summoned as additional accused to face trial along with other co-accused. The aforesaid application was allowed by learned Judicial Magistrate by passing order dated 15.09.2018 which is Annexure P-1. Smt. Suman Goyal was summoned as an additional accused. The aforesaid order was challenged by Smt. Suman Goyal by filing revision against the order dated 15.09.2018. Copy of revision is Annexure P-2. The revision was dismissed by learned Additional Sessions Judge, Patiala by passing detailed order dated 21.04.2022 which is Annexure P-3. The petitioner is seeking quashing of the aforesaid orders by way of filing the present petition.

3. Learned counsel for the petitioner argued that during investigation of the case the petitioner was found innocent, therefore, she was neither challaned in this case nor she was kept in column No.2 of the challan report. The bare reading of FIR clearly indicates that there are no specific allegations of harassment and demand of dowry against the present petitioner. The learned Judicial Magistrate 1st Class, Patiala failed to

appreciate the facts of the case and wrongly summoned the present petitioner as an accused vide order dated 15.09.2018. The revision preferred by the petitioner was also wrongly declined by the learned Additional Sessions Judge, Patiala without appreciating the facts of the case and the documents on record. The allegations levelled against the petitioner are vague and without any basis. There was no sufficient material on the record to summon the present petitioner as an additional accused.

In order to support his arguments, he has relied upon the authorities cited in **2021 (4) R.C.R (Criminal) 219 Supreme Court of India case titled as Ramesh Chandra Srivastava Vs. State of U.P. & Anr.** wherein it was explained that “for invoking power under Section 319 Cr.P.C. Inter alia includes principle that only when strong and cogent evidence, occurs against person from evidence, then power under Section 319 Cr.P.C. should be exercised – Power cannot be exercised in casual and cavalier manner. In that case the summoning of appellant as an additional accused was set aside.” It is prayed that even in the present case in the absence of any specific allegation of harassment and demand of dowry, the present petitioner has been summoned to face trial along with other accused. Therefore, the present petition for quashing of order dated 21.04.2022, Annexure P-3, and order dated 15.09.2018, Annexure P-1 may be accepted.

4. On the other hand, learned counsel representing the State has opposed the present petition by arguing that in the FIR there are specific serious allegations of maltreatment and demand of dowry. The matter was investigated. However, only Nikhil Kumar Goyal and Phool Kumar Goyal were challaned to face trial in this case. It is conceded that Suman Goyal was not arrayed as an accused nor she was kept in column No.2 of the challan report. However, when the statement of complainant Ruchika

Goyal was recorded in the Court, she levelled specific allegation of harassment and demand of dowry and on that basis an application was filed under Section 319 Cr.P.C. which was rightly allowed by the learned Judicial Magistrate 1st Class by passing order dated 15.09.2018 and the revision preferred against that order was rightly declined by learned Additional Sessions Judge, Patiala vide order dated 21.04.2022. It is argued that the petition has been filed only to further delay the proceedings of trial Court. It is argued that the charge has already been framed and the evidence of prosecution is being recorded. It is prayed that the petition preferred by the petitioner for quashing of aforesaid order may be dismissed.

5. I have considered the arguments advanced before me. I have gone through the record carefully. As per the contents of FIR No.60 dated 18.06.2017, Annexure P-5, a written complaint was filed by Ruchika Goyal against her husband and in-laws family alleging that her marriage was performed by her parents with great pomp and show by spending Rs.45,00,000/-. She has mentioned the dowry articles given at the time of various functions and marriage in the shape of jewellery, clothes, cash amount, etc. All the dowry articles were given to her in-laws at the time of *roka* ceremony, ring ceremony and marriage. It was assured that the said articles were *istridhan* which were given to her for her use. After marriage she lived in the matrimonial home at Jalandhar. She was treated nicely for few days and thereafter the attitude of her husband and in-laws changed towards her and they raised demand of cash amount and jewellery. She was turned out of the house by her husband and father-in-law and was told to bring Rs.10 lacs and then only she could show her face to them. She could not go back to her parents and ultimately her husband allowed to come back only with a condition that she will talk to

her parents regarding the aforesaid demand. After few days her husband and father-in-law again told her to bring money for her own expenses and demanded Rs.10 lacs from her. She has narrated various incidents when she was turned out of the house regarding their demand of money. She categorically stated that she was ill-treated by her husband and mother-in-law and many a times they who used to beat her on one pretext or the other. Her parents agreed to give Rs.3 lacs to adjust her in the matrimonial home and this amount was transferred in the account of complainant with the assurance that she would be kept nicely in the matrimonial home. She gave birth to a son on 22.03.2016 and even then a bank draft of Rs.1 lakh was given which was deposited in her account and withdrawn by her in-laws. Even thereafter there was no change in their behaviour which compelled her to file the present complaint on the basis of which the present FIR has been registered.

On the basis of aforesaid complainant Nikhil Goyal husband and Phool Kumar Goyal, father-in-law were challaned in the aforesaid FIR under Section 406, 498-A IPC. After framing of charge against both, the statement of complainant was recorded and thereafter under Section 319 Cr.P.C. the application was filed to summon the present petitioner as an accused. Learned counsel for the petitioner claimed that Suman Goyal, the petitioner was wrongly summoned on application under Section 319 Cr.P.C. as there were no allegations of harassment or demand of dowry. The contents of FIR as detailed above shows that the complainant had levelled allegations against her in-laws which included father-in-law as well as mother-in-law regarding demand of dowry, maltreatment and beating given to her from time to time. The complainant with the assistance of Additional Public Prosecutor has filed application under Section 319 Cr.P.C. according to which, “where in the course of any

inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.”

There is no denial to the settled proposition that additional accused could be summoned only if there was more than prima facie case as required at the time of framing of charge but which was less than satisfaction required at the time of conclusion of trial for the final adjudication of the case. In the case in hand, the present petitioner is the mother-in-law of the complainant and in the FIR itself she has specifically levelled allegations of maltreatment against her in-laws regarding demand of more dowry. The FIR is to be read as a whole. Therefore, it cannot be said that the allegations were only against father-in-law and not against the present petitioner who is the mother-in-law. Considering the FIR and statement of complainant recorded in the Court, it cannot be said that the learned trial Court wrongly summoned the present petitioner by allowing the application under Section 319 Cr.P.C. vide order dated 15.09.2018, Annexure P-1 nor it can be said that the revision filed by the petitioner was wrongly rejected by the Ld. Additional Sessions Judge, Patiala vide order dated 21.04.2022, Annexure P-3. The chargesheet in the case is already framed and the evidence of the prosecution is under progress. Considering the aforesaid facts, I do not find merits in the petition filed by the petitioner for quashing of aforesaid orders and the same is, accordingly, declined.

(AMARJOT BHATTI)
JUDGE

20.02.2023
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No