

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 109

Criminal Miscellaneous No.M-24879 of 2023
Date of Decision: May 16, 2023

Usha

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. Pawan Kumar Hooda, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

. . .

Tribhuvan Dahiya, J (Oral)

This petition has been filed seeking a direction to the trial Court to decide the application under Section 319 Cr.P.C. filed by the petitioner/mother of the victim before proceeding further with the trial of the case in FIR No.0115 dated 22.05.2017, registered under Sections 302, 34 IPC, at Police Station Sadar, Panipat.

2. Learned counsel for the petitioner submits that the petitioner filed an application under Section 319 Cr.P.C. before the trial Court for summoning the deceased's father-in-law and brother-in-law as additional accused. On 15.03.2023, the trial Court took the application on record and ordered that it shall be dealt with later on. The Court thereafter continued with recording of evidence and did not decide the application; it remains pending to date and trial is progressing. By referring to the judgment passed by the Supreme Court in *Juhru and others v. Karim and another*, 2023 SCC Online SC 171, learned counsel further contends that once the application for summoning the additional accused under Section 319 Cr.P.C. is filed

before the trial Court, it is required to decide the same before proceeding further.

3. Learned State counsel, appearing on advance notice, on instructions from ASI Surrender, pointed out that the complainant in this case (victim's father) had already filed an application under Section 319 Cr.P.C. for summoning deceased's father-in-law and brother-in-law as additional accused which was dismissed by the trial Court vide order dated 05.02.2020. Revision petition filed against the same is pending before this Court and is fixed for hearing on 06.07.2023.

4. Since the earlier application filed by the complainant for summoning the aforesaid persons as additional accused has already been dismissed and revision against the same is pending before this Court, maintainability of the second application under Section 319 Cr.P.C. is itself questionable. As the application is pending adjudication before the trial Court, this Court is not going into the issue. At the same time, it finds no ground to issue any direction to the trial Court for early disposal of the second application under Section 319 Cr.P.C.

5. Dismissed.

(Tribhuvan Dahiya)
Judge

May 16, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No