

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1734-2017 (O & M)
Date of decision:07.02.2023

Amarjeet Singh

... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amaninder Singh Sekhon,
for the petitioner.

Ms. N.K. Barnala, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The instant revision petition has been filed for setting aside the order dated 11.04.2017 passed by the Sessions Judge, Faridkot by virtue of which an application under Section 319 Cr.P.C. filed by the Public Prosecutor/complainant for summoning Harpreet Singh and Ramandeep Kaur as additional accused has been dismissed.

2. The brief facts emanating from the pleadings are that case FIR No.72 dated 17.06.2013 under Sections 302, 120-B IPC came to be registered at Police Station Sadar Kotkapura, District Faridkot. The complainant-petitioner Amarjit Singh son of Gurdas Singh stated that he was an agriculturist. His sister Kirandeep Kaur was married to Amrik Singh son of Jagdish Singh and they had one daughter, namely, Ravneet Kaur aged 03 years. His brother-in-law Amrik Singh had illicit relations with his sister-in-law Ramandeep Kaur, which was not to the liking to his (complainant's) sister. Due to this fact, there were frequent quarrels between the couple.

About 15 days prior to the occurrence, Kirandeep Kaur after having a fight came to his (complainant's) village alongwith her daughter. Due to being beaten up, his (complainant's) sister's neck had been displaced and in order to get her treated, he (complainant) alongwith his uncle-Saminder Singh and his (complainant's) mother Gurjit Kaur took Kirandeep Kaur to Medical Hospital, Faridkot. By that time, his brother-in-law-Amrik Singh also reached the spot. On his (Amrik Singh's) insistence that he wanted to take his wife along, she sat behind him on his motorcycle make Hero Honda CD-100 bearing registration No PB30K-6575 and their mother, namely, Gurjit Kaur sat behind his sister (Kirandeep Kaur) on the same motorcycle. He (complainant) alongwith his uncle Saminder Singh followed them on their motorcycle. They saw that Amrik Singh took his motorcycle on the *kacha* path of the Rajasthan Canal and pushed his (complainant's) mother and sister in the canal alongwith the motorcycle. They (complainant side) reached the spot and shouted for help and tried to pull both of them out. However, the flow of the water was very fast and though other people came to the spot, the two dead bodies were discovered only later. Amrit Singh ran away from the spot. The motive behind the enmity was that Amrik Singh was in an illicit relationship with his sister-in-law (Ramandeep Kaur) wife of Harpreet Singh. In fact, Harpreet Singh and his wife Ramandeep Kaur used to beat up his (complainant's) sister and Panchayats had been held earlier as well. Under a conspiracy with the other two, Amrik Singh had intentionally pushed his mother and sister into the canal.

Based on the aforementioned allegations, the present FIR came to be registered against all the three accused. A copy of the same is

3. During the course of the investigation, Harpreet Singh and Ramandeep Kaur were shown to be in Column No.2 in the report under Section 173 Cr.P.C. and the same was presented only against accused-Amrik Singh. Thereafter, the charges came to be framed against Amrik Singh under Section 302 IPC. After the examination of the complainant-Amarjit Singh as PW-3 and Pritam Singh as PW-4, an application under Section 319 Cr.P.C. was filed by the prosecution to summon Harpreet Singh and Ramandeep Kaur as additional accused.

4. The aforementioned application came to be declined by the Court of Sessions Judge, Faridkot vide order dated 11.04.2017. Meanwhile, the accused-Amrik Singh also came to be acquitted during the course of Trial vide judgment dated 21.04.2018 passed by the Sessions Judge, Faridkot.

5. The instant revision petition has been filed challenging the order dated 11.04.2017 vide which the prayer of the complainant/petitioner for summoning Ramandeep Kaur and Harpreet Singh as additional accused under Section 319 Cr.P.C. has been declined.

6. The learned counsel for the petitioner-complainant contends that there was sufficient available evidence in the deposition of PW-3/Amarjit Singh and PW-4/Pritam Singh so as to summon the aforesaid persons as additional accused. Even though the main accused had been acquitted, an appeal against acquittal has been preferred and was pending adjudication before this Court and therefore, the exonerated accused ought to be summoned to face Trial.

7. The learned counsel for the State, on the other hand, has

has been acquitted, an appeal bearing No. CRA-AD-111-2020 against his acquittal is pending and the exonerated accused ought to be summoned to face trial under the provisions of Section 319 Cr.P.C..

8. I have heard the learned counsel for the parties.

9. Section 319 Cr.P.C. is reproduced as under:-

319. Power to proceed against other persons appearing to be guilty of offence.

(1) 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.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under subsection (1), then-

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re- heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

A perusal of the aforementioned provisions would show that a prospective accused can be summoned under Section 319 Cr.P.C. only if he could be tried together with the other accused.

10. In the present case, once the main accused-Amrik Singh has been acquitted, the question of the proposed accused being tried alongwith Amarjit Singh does not arise.

11. Further, a perusal of the FIR would reveal that the accused sought to be summoned were not present at the spot at the time when Amrik Singh is stated to have pushed both the deceased into the canal. Therefore, in the absence of any evidence of conspiracy, the prospective accused ought not to be summoned.

In fact, Pritam Singh, who was examined as PW-4 in his statement under Section 161 Cr.P.C. recorded 06 days after the occurrence has stated that it was Harpreet Singh who was asking his wife Ramandeep Kaur to develop illicit relations with Amrik Singh-main accused. This fact itself does not stand to reason. It cannot be believed that a husband would tell his wife to develop illicit relations with another man. Further, the statements of Amarjit Singh-PW-3 and Pritam Singh-PW-4 do not mention that Harpreet Singh and Ramandeep Kaur were asking Amrik Singh to eliminate Gurjit Kaur, mother of Kirandeep Kaur as well. Had this conversation actually taken place between Amrik Singh on the one hand and Harpreet Singh and Ramandeep Kaur on the other and Pritam Singh had actually heard the same, he would have certainly conveyed this conversation to the father of Kirandeep Kaur (deceased) and husband of Gurjit Kaur (deceased) i.e. Gurdas Singh. Therefore, the statements of these witnesses

do not further the case of the prosecution in any manner and are unbelievable.

12. Even otherwise, as per the record, an enquiry was conducted by SHO, Police Station Sadar Kotkapura, which came to be endorsed by the DSP, Sub Division, Kotkapura and recommended by the SSP, Faridkot. As per the enquiry, Harpreet Singh and Ramandeep Kaur were found to be innocent and therefore, the police submitted a report under Section 173(8) Cr.P.C. exonerating them.

13. In view of the abovesaid discussion, I find no merit in the present petition. The same is therefore dismissed.

February 07, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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