

2023:PHHC:163220

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

**Reserved on 29th of September, 2023
Pronounced on 19th December, 2023**

CRR No.4578 of 2017

K.K. RaoPetitioner

versus

State of Haryana and anotherRespondents

CRR No.2861 of 2018 (O&M)

Gulzar SinghPetitioner

versus

State of Haryana and anotherRespondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Jai Vir Yadav, Senior Advocate with
Mr. Rohit Kumar Rana, Advocate and
Mr. Aman Gautam, Advocate
for the petitioner in CRR No.4578 of 2017.

Mr. Parminder Pal Singh, Advocate
for the petitioner in CRR No.2861 of 2018.

Mr. Gurmeet Singh, Asstt. Advocate General, Haryana.

Mr. Ashit Malik, Advocate for respondent No.2.

PANKAJ JAIN, J.

By this common order I intend to dispose off two revision petitions preferred by accused(s) in a complaint case.

2. CRR No.4578 of 2017 is by an additional accused who has been summoned by the Trial Court invoking Section 319 Cr.P.C. of the Code. CRR No.2861 of 2018 is by main accused who has been

summoned in a complaint to face trial *qua* offence punishable under Section 309, 306 IPC. Both the revision petitions arise out common complaint and thus they are being adjudicated by common order.

3. The present complaint has its genesis in FIR No.206 dated 2nd of October, 2000 registered for the offences punishable under Sections 302, 307, 148, 149, 120B IPC and Section 25/27 of Arms Act, at Police Station Indri.

4. Respondent Jagbir Singh the complainant in the present case was booked as one of the 14 accused for murder of 5 persons. FIR was registered on information received from Karam Pal on 2nd of October, 2000 who claimed that on 1st of October, 2000 Paramjeet Singh @ Pammi and others ploughed about 15-20 acres of *shamlat* land with tractor. After the villagers gathered on the spot and wanted to know the reason behind the aforesaid persons Jeet Singh and Paramjeet Singh ploughing the land, there was firing. The villagers acted in self defence leading to death of Jeet Singh. It was further alleged that Ramesh, Sultan, Dei Ram, Richpal also died. Weapon was alleged to have been recovered from the complainant Jagbir Singh who was arrested on 11th of October, 2000 and was sent to judicial custody on 13th of October, 2000. Petitioner Gulzar Singh in Criminal Revision No.2861 of 2018 was the Investigating Officer. K.K. Rao petitioner in Criminal Revision No.4578 of 2017 was posted as Deputy

Superintendent of Police (HQ.) Karnal during the relevant period of time.

5. Brother of complainant namely Samay Singh consumed poison. He died on 5th of November, 2000 leading to registration of FIR No.501 dated 5th of November, 2000 under Section 309 IPC at Police Station Sadar, Karnal. The contents of the same read as under :

“Copy of the report No. 9-C Jagroop Singh No.3113 Chandigarh, U.T. arrival of the Constable, information and proceeding. At 11.00 AM on 5.11.2000 it is recorded that at present Constable mentioned in column No. 2 came present himself in the office and produced a written report written by Sh. Ajay Singal, JMiC (D) Chandigarh, narrating the statement of Samay Singh resident of Phoosgarh aged 26 years, a student, resident of Village Phoosgarh, District Karnal, on S.A.

Stated that my brother Jagbir Singh is involved in a murder case. Due to this the police used to visit our house every day. The police used to demand money say to get the name deleted, pay us money. We had nothing to do with the murder case. My brother is innocent, I consumed poison to finish my life because the police used to harass time and again and I had no other way. I consumed two-three tablets of Alnuniun Almainiam Pasphide. I consumed one tablet by mixing the same in water while two were consumed without mixing the same in the water today at 12.00 Noon in my fields in the Village at Karnal I purchased the tablets from the city. I do not remember the name of the shop. This is the whole matter and want to say nothing else. RO&AC Samay Singh, Sd/- Ajay Singal, JMIC (C.P) Chandigarh 4.11.2000 at 9.20 PM. I certify that the statement contains the correct version there was none other except one doctor on duty around. Sd/- Ajay Singal, JMIC (D), Chandigarh dated 4.11.2000 at 9.20 PM. Statement recorded in my presence

and patient remained fit during the statement. Sd/- Supali Khanna (SMO) dated 4.11.2000 at 9.20 PM.

Police proceedings: Today I A.S.I. along with constable Harphul Singh No. 31 were present in the General Hospital, Karnal, in connection with the investigation of case No. 499 of 2000 under sections 229, 304, I.P.C., that I received report No. 9 dated 5.11.2000 for investigation by hand through Constable Rajrop No. 792 and one doctor's ruga was also received yesterday on 4.11.2000 regarding the poison being consumed by Samay Singh son of Punjab Singh, resident of Phoosgarh on which I Assistant Sub Inspector, reached General Hospital, Karnal, for recording the statement of the injured Whereas the patient and already been referred to the P.G.I., Chandigarh. At that time, one parcel was handed over to me. Today I Assistant Sub Inspector along with Constable Harphool Singh and Constable Gajraj Singh, No. 792 reached in village Phoosgarh. Jagbir Singh, brother of Samay Singh, Police Station, Indri, who is accused in a case under Section 302, who has already been arrested in the case. Samay Singh son of Punjab Singh in the area of Village Phoosgarh has tried to commit suicide by consuming poisonous tablets. Accordingly, an offence under Section 309 IPC, is found to have been committed. Accordingly, the written complaint is being sent by hand through constable Rajroop Singh No. 792 to the police station for the registration of the case FIR No. be intimated. xxxx”

6. On 31st of January, 2001 when the complainant appeared in case FIR No. 206/2000 before Judicial Magistrate 1st Class, Karnal he moved an application with a prayer that FIR No.501 dated 5th of November, 2000 registered under Section 309 IPC be converted into one *qua* offence punishable under section 306 IPC against Gulzar

Singh and K.K. Rao. The same was marked by Superintendent of Police, Karnal to Deputy Superintendent of Police Karnal, which led to proceedings under Section 182 IPC against the complainant. The complainant was tried and was finally acquitted holding that the prosecution has failed to prove case against the accused vide judgment dated 1st of December, 2009 passed by Judicial Magistrate 1st Class, Karnal. The judgment has been placed on record by the complainant as Annexure R-2/2.

7. In FIR No.501 dated 5th of November, 2000 on the basis of investigation, Cancellation/Closure Report was filed by the Police. The complainant filed Protest Petition which was treated by the Magistrate as a complaint. The complainant led preliminary evidence. Trial Court summoned accused No.2 i.e. Gulzar Singh and held that *qua* petitioner K.K. Rao the evidence adduced was not sufficient. The trial was committed to the Court of Ld. Sessions Judge vide order dated 30th of April, 2014. Charges were framed against Gulzar Singh on 30th of November, 2016.

8. After framing of Charges the complainant appeared as PW-1 and reiterated allegations as levelled in the complaint. After the complainant was partly cross-examined an application under Section 319 Cr.P.C. was moved seeking summoning of petitioner K.K. Rao as additional accused. The said application stands allowed vide order

dated 29th of November, 2017. The same has been impugned in Revision Petition No.4578 of 2017.

9. Petitioner Gulzar Singh impugned summoning order dated 29th of January, 2014 vide CRM-M No.19678 of 2014. However, the same was dismissed as withdrawn with liberty to raise all the pleas in defence at opportune time. Orders passed by this Court dated 30th of June, 2014 has been placed on record as Annexure P-6 in CRR-2861 of 2018. The petitioner thereafter preferred Criminal Revision before the Sessions Court. However, the same was also withdrawn. After the Charges were framed vide order dated 30th of November, 2016 present Revision Petition has been preferred by petitioner Gulzar Singh impugning the order of framing of charges.

SUBMISSIONS MADE ON BEHALF OF THE PETITIONERS :

10. Ld. Senior Counsel representing K.K. Rao submits that it is a case wherein an accused in a murder case has tried to abuse the process of law. It has been contended by him that first allegations against the petitioner came to light on 31st of January, 2001 i.e. after 2 months and 27 days of the day Samay Singh brother of respondent No.2 committed suicide. It has been further contended that the original of the alleged suicide note is still untraceable. The whole matter was thoroughly investigated by the Police Authorities and it

was found that the allegations levelled are false which led to initiation of proceedings under Section 182 IPC against the respondent/complainant. Senior Counsel submits that even if the alleged dying declaration is taken on its face value the same would not meet requirements of 'more than *prima facie* case' which is pre-requisite for invoking provisions of Section 319 Cr.P.C. of the Code to summon an additional accused. Mr. Yadav submits that there is no fresh evidence that has come to light which is *sine qua non* to invoke Section 319 Cr.P.C. It has been further contended that once the Trial Court opted not to summon the petitioner holding that there is no *prima facie* case made against him in the absence of there being any fresh evidence, the Trial Court erred in invoking Section 319 of the Code. Heavy reliance has been placed upon **Hardeep Singh vs. State of Punjab, (2014) SCC 92, Bijendra Singh vs. State of Rajasthan, 2017(3) RCR (Criminal) 374, Labhuti Amratji Thakor vs. State of Gujarat, 2019 (1) RCR (Criminal) 1, Shiv Prakash Mishra vs. State of Uttar Pradesh, (2019) 7 SCC 806, Sarabjit Singh vs. State of Punjab, 2009(3) RCR (Criminal) 388, Parvinder Singh vs. State of Punjab, 2020(2) Law Herald 1173, Laxmi vs. State of Haryana and Another, 2018(1) RCR (Criminal) 987, Jogendra Yadav vs. State of Bihar, (2015) 9 SCC 244, M/s Pepsi Foods Pvt. Ltd. vs. Special**

Judicial Magistrate, (1998)5 SCC 749 and Ranjit Thakur vs. Union of India (1987) 4 SCC 611.

11. Counsel for the petitioner Gulzar Singh while assailing the order framing charges against the petitioner submits that a bare perusal of the order would reveal that the Trial Court has framed the charge casually without applying its mind as to whether the evidence on record satisfies the test of '*prima facie* case' or not?

12. Per contra, Mr. Ashit Malik, Advocate counsel representing the respondent submits that the Trial Court has rightly framed the charges against accused Gulzar Singh and has rightly summoned the other petitioner invoking under Section 319 Cr.P.C. He submits that its a complaint case and the trial begins after the Court applied its mind i.e. when the Charges are framed. From the reading of law laid down in **Hardeep Singh vs. State of Punjab, (2014) 3 SCC 92** it is evident that the 'evidence' means, 'the evidence that has come before the Trial Court'. He has read from judgment rendered in Hardeep Singh's case (supra) to submit that the Constitution Bench was alive to the situation as is being canvassed by Mr. Yadav, Senior Counsel representing the petitioner and relies upon the following observations:

“110. We accordingly sum up our conclusions as follows :

Question Nos. 1 & III

Q.1 What is the stage at which power under Section 319 Cr.P.C. can be exercised?

AND

Q.III Whether the word "evidence" used in Section 319(1) Cr.P.C. has been used in a comprehensive sense and includes the evidence collected during investigation or the word "evidence" is limited to the evidence recorded during trial?

A. In Dharam Pal's case, the Constitution Bench has already held that after committal, cognizance of an offence can be taken against a person not named as an accused but against whom materials are available from the papers filed by the police after completion of investigation. Such cognizance can be taken under Section 193 Cr.P.C. and the Sessions Judge need not wait till 'evidence' under Section 319 Cr.P.C. becomes available for summoning an additional accused.? Section 319 Cr.P.C., significantly, uses two expressions that have to be taken note of i.e. (1) Inquiry (2) Trial. As a trial commences after framing of charge, an inquiry can only be understood to be a pre-trial inquiry. Inquiries under Sections 200, 201, 202 Cr.P.C.; and under Section 398 Cr.P.C. are species of the inquiry contemplated by Section 319 Cr.P.C. Materials coming before the Court in course of such enquiries can be used for corroboration of the evidence recorded in the court after the trial commences, for the exercise of power under Section 319 Cr.P.C., and also to add an accused whose name has been shown in Column 2 of the charge-sheet. In view of the above position the word 'evidence' in Section 319 Cr.P.C. has to be broadly understood and not literally i.e. as evidence brought during a trial.

Question No. II

Q.II Whether the word "evidence" used in Section 319(1) Cr.P.C. could only mean evidence tested by cross-examination or the court can exercise the power under the said provision even on the basis of the statement made in the examination-in-chief of the witness concerned?

A. Considering the fact that under Section 319 Cr.P.C. a person against whom material is disclosed is only summoned to face the trial and in such an event under Section 319(4) Cr.P.C. the proceeding against such person is to commence from the stage of taking of cognizance, the Court need not wait for the evidence against the accused proposed to be summoned to be tested by cross-examination.

Question No. IV

Q.IV What is the nature of the satisfaction required to invoke the power under Section 319 Cr.P.C. to arraign an accused? Whether the power under Section 319 (1) Cr.P.C. can be exercised only if the court is satisfied that the accused summoned will in all likelihood be convicted?

A. Though under Section 319(4)(b) Cr.P.C. the accused subsequently impleaded is to be treated as if he had been an accused when the Court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under Section 319 Cr.P.C. would be the same as for framing a charge. The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of

the trial - therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different.

Question No. V

Q.V Does the power under Section 319 Cr.P.C. extend to persons not named in the FIR or named in the FIR but not charge-sheeted or who have been discharged?

A. A person not named in the FIR or a person though named in the FIR but has not been chargesheeted or a person who has been discharged can be summoned under Section 319 Cr.P.C. provided from the evidence it appears that such person can be tried along with the accused already facing trial. However, in so far as an accused who has been discharged is concerned the requirement of Sections 300 and 398 Cr.P.C. has to be complied with before he can be summoned afresh.

13. I have heard rival contentions and have carefully gone through records of the case.

14. In order to appreciate the legal proposition canvassed by the Counsels representing the parties it will be apt to recall the chronology of events leading to the present case :

CHRONOLOGY OF EVENTS

2 nd October, 2000	FIR No.206 was registered for offences punishable under Section 302 IPC against 14 persons including the complainant.
11 th October, 2000	The complainant was arrested and sent to judicial custody on 13 th of October, 2000.
4 th November, 2000	Samay Singh brother of the complainant consumed poison. His dying declaration was recorded by Judicial Magistrate 1 st Class, Chandigarh.

4 th November, 2000	A suicide note in the writing of Samay Singh is stated to have been found.
5 th November, 2000	FIR was registered under Section 309 IPC.
31 st January, 2001	At the time the complainant appeared as accused before the Judicial Magistrate 1 st Class, Karnal in FIR No.206/2000 he moves an application for converting FIR No.501 dated 5 th of November, 2000 under Section 309 IPC to one <i>qua</i> offence punishable under Section 306 IPC levelling allegations against the present petitioners i.e. Gulzar Singh, Inspector CIA Staff and K.K. Rao, Deputy Superintendent of Police (HQ.) claiming that deceased Samay Singh met him thrice in District Jail, Karnal and informed him that both Gulzar Singh, Inspectot and K.K. Rao, DSP (HQ.) demanded Rs.2.00 lacs for not implicating him and other family members in the case. The matter was referred to Superintendent of Police.
4 th April, 2001	On the application filed by complainant for converting FIR No.501 from one under Section 309 IPC to <i>qua</i> offence punishable under Section 306 IPC the police initiates proceedings under Section 182 IPC. Complainant is acquitted of charges under Section 182 on 1 st of December, 2009.
4 th February, 2004	Complainant and all other accused are acquitted in FIR No.206 dated 2 nd of October, 2000.
13 th of July, 2006	Complainant prefers Protest Petition-cum-Complaint in FIR No.501 dated 5 th of November, 2000.
29 th January, 2014	Summoning orders passed against Gulzar Singh. <i>Qua</i> petitioner K.K. Rao, Trial Court finds that there is no sufficient evidence to summon him.

After the trial was committed to the Sessions Court and the charges were framed, the complainant appeared as PW1 and reiterated allegations against K.K. Rao and Gulzar Singh leading to invocation of Section 319 Cr.P.C.

15. The provision contained in Section 319 Cr.P.C. has come under detailed scrutiny of Constitution Bench in Hardeep Singh's case (supra). So far as the plea raised by Mr. Yadav, Senior Counsel representing the petitioner w.r.t. there being no fresh evidence to summon the petitioner under Section 319 Cr.P.C. is concerned, the

precise eventuality has been canvassed by the Constitution Bench observing :

“51. There is yet another set of provisions which form part of inquiry relevant for the purposes of Section 319 Cr.P.C. i.e. provisions of Sections 200, 201, 202, etc. Cr.P.C. applicable in the case of Complaint Cases. As has been discussed herein, evidence means evidence adduced before the court. Complaint Cases is a distinct category of criminal trial where some sort of evidence in the strict legal sense of Section 3 of the Evidence Act 1872, (hereinafter referred to as the ‘Evidence Act’) comes before the court. There does not seem to be any restriction in the provisions of Section 319 Cr.P.C. so as to preclude such evidence as coming before the court in Complaint Cases even before charges have been framed or the process has been issued. But at that stage as there is no accused before the Court, such evidence can be used only to corroborate the evidence recorded during the trial for the purpose of Section 319 Cr.P.C., if so required.

52. What is essential for the purpose of the section is that there should appear some evidence against a person not proceeded against and the stage of the proceedings is irrelevant. Where the complainant is circumspect in proceeding against several persons, but the court is of the opinion that there appears to be some evidence pointing to the complicity of some other persons as well, Section 319 Cr.P.C. acts as an empowering provision enabling the court/Magistrate to initiate proceedings against such other persons. The purpose of Section 319 Cr.P.C. is to do complete justice and to ensure that persons who ought to have been tried as well are also tried. Therefore, there does not appear to be any difficulty in invoking powers of Section 319 Cr.P.C. at the stage of trial in a complaint case when the evidence of the complainant as well as his witnesses is being recorded.

53. Thus, the application of the provisions of Section 319

Cr.P.C., at the stage of inquiry is to be understood in its correct perspective. The power under Section 319 Cr.P.C. can be exercised only on the basis of the evidence adduced before the court during a trial. So far as its application during the course of inquiry is concerned, it remains limited as referred to hereinabove, adding a person as an accused, whose name has been mentioned in Column 2 of the charge sheet or any other person who might be an accomplice.

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69. Ordinarily, it is only after the charges are framed that the stage of recording of evidence is reached. A bare perusal of Section 227 Cr.P.C. would show that the legislature has used the terms “record of the case” and the “documents submitted therewith”. It is in this context that the word ‘evidence’ as appearing in Section 319 Cr.P.C. has to be read and understood. The material collected at the stage of investigation can at best be used for a limited purpose as provided under Section 157 of the Evidence Act i.e. to corroborate or contradict the statements of the witnesses recorded before the court. Therefore, for the exercise of power under Section 319 Cr.P.C., the use of word ‘evidence’ means material that has come before the court during an inquiry or trial by it and not otherwise. If from the evidence led in the trial the court is of the opinion that a person not accused before it has also committed the offence, it may summon such person under Section 319 Cr.P.C.

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74. An inquiry can be conducted by the magistrate or court at any stage during the proceedings before the court. This power is preserved with the court and has to be read and understood accordingly. The outcome of any such exercise should not be an impediment in the speedy trial of the case.

75. Though the facts so received by the magistrate or the court may not be evidence, yet it is some material that makes things clear and unfolds concealed or deliberately suppressed material that may facilitate the trial. In the context of Section 319 Cr.P.C.

it is an information of complicity. Such material therefore, can be used even though not an evidence in stricto sensu, but an information on record collected by the court during inquiry itself, as a prima facie satisfaction for exercising the powers as presently involved.

76. This pre-trial stage is a stage where no adjudication on the evidence of the offences involved takes place and therefore, after the material alongwith the charge-sheet has been brought before the court, the same can be inquired into in order to effectively proceed with framing of charges. After the charges are framed, the prosecution is asked to lead evidence and till that is done, there is no evidence available in the strict legal sense of Section 3 of the Evidence Act. The actual trial of the offence by bringing the accused before the court has still not begun. What is available is the material that has been submitted before the court along with the charge-sheet. In such situation, the court only has the preparatory material that has been placed before the court for its consideration in order to proceed with the trial by framing of charges.

77. It is, therefore, not any material that can be utilised, rather it is that material after cognizance is taken by a court, that is available to it while making an inquiry into or trying an offence, that the court can utilize or take into consideration for supporting reasons to summon any person on the basis of evidence adduced before the Court, who may be on the basis of such material, treated to be an accomplice in the commission of the offence. The inference that can be drawn is that material which is not exactly evidence recorded before the court, but is a material collected by the court, can be utilised to corroborate evidence already recorded for the purpose of summoning any other person, other than the accused.

78. This would harmonise such material with the word 'evidence' as material that would be supportive in nature to facilitate the exposition of any other accomplice whose complicity in the offence may have either been suppressed or

escaped the notice of the court.

79. The word “evidence” therefore has to be understood in its wider sense both at the stage of trial and, as discussed earlier, even at the stage of inquiry, as used under Section 319 Cr.P.C. The court, therefore, should be understood to have the power to proceed against any person after summoning him on the basis of any such material as brought forth before it. The duty and obligation of the court becomes more onerous to invoke such powers cautiously on such material after evidence has been led during trial.

80. In view of the discussion made and the conclusion drawn hereinabove, the answer to the aforesaid question posed is that apart from evidence recorded during trial, any material that has been received by the court after cognizance is taken and before the trial commences, can be utilised only for corroboration and to support the evidence recorded by the court to invoke the power under Section 319 Cr.P.C. The ‘evidence’ is thus, limited to the evidence recorded during trial.”

(emphasis supplied)

16. Thus, in view of the afore-settled proposition of law, this Court finds that the plea raised by the Senior Counsel sans merit and stands rejected.

17. Coming to the material question whether the evidence on record satisfies '*prima facie*' test *qua* petitioner K.K. Rao it will be apt to peruse the Dying Declaration of the brother of the complainant recorded by Judicial Magistrate 1st Class, Chandigarh on 4th of November, 2000 :

“Stated that my brother Jagbir Singh is involved in a murder

case, due to which Police used to come to our house daily and demanded the money that for dropping the name. We have no concern the said murder case, brother is innocent. I have consumed the poison to kill myself because Police time and again ---there is no other way. I have taken 2-3 tablets of Aluminium Aluminium Phosphate, one by dissolving in the water and two other without dissolving, at 12 Noon in fields of my village at District Karnal. I purchased the tablets from a shop of City, I do not know the name of the shop. This is the story. Nothing more is to be said.”

18. The complainant in the first application filed by him seeking conversion of FIR from the one punishable under Section 309 IPC to Section 306 IPC alleged as under :

“4. Samay Singh met the applicant thrice in the District Jail, Karnal and twice in District Courts Karnal when the applicant was produced before the Magistrate on 14.10.2000 and 28.10.2000 and narrated the above said threats of implicating him and other family members in the murder case and demanding Ts two lacs from Samay Singh.

5. Samay Singh told the applicant that he alongwith Lakhmi Chand and Vinod Sangwan was summoned in CIA Staff Karnal on 27.10.2000 and was tortured and threatened to be implicated in the case and further that both K.K.Rao DSP and Inspector Gulzar Singh demanded Rs two lacs for not to implicate him and other family members in the case and also for the arrest of accused of Jeet Singh murder case.”

19. The same has been reiterated by him while appearing as PW-1 in the complaint after the Charges were framed which forms

evidence before the Trial Court, recorded by the Trial Court.

20. It is under these circumstances that the Trial Court rightly found as under :

“16. Now question arises if in present case evidence of complainant was sufficient for implicating and making out the case of complainant against accused No.1 as well alongwith accused No.2? The dying declaration Ex.P-1 given by deceased to Magistrate was against police of Karnal which was torturing and demanding money. The deceased has not specifically mentioned the name neither of accused No.2 nor of accused No.1. In my view, trial Court abruptly came to the conclusion that there was no prima facie case against accused No.1. From the above discussed evidence, oral as well as documentary, there is sufficient evidence against accused No.1 as well alongwith accused No.2 for commission of offence under section 306 read with section 34 of IPC, for he alongwith accused No.2 forced and compelled deceased Samay Singh to take extreme step. The overt act of demand of money and mental torture which were made by both accused from time to time were illegal acts and same were certainly away from the official duty of both accused. Moreover, they even given dead line to deceased to make payment of balance amount of ₹2 lakhs till 05.11.2000. Deceased paid amount of ₹1 lakh (as reflecting from testimony of PW-1) but endless demands of accused kept deceased under constant obsession of fear and death by implication in false criminal case of murder in case he failed to make payment of the balance amount of ₹2 lakhs. Since deceased was not having financial source to meet out the illegal demands of accused, therefore, he took the extreme step by consuming tablets of aluminum phosphide.

17. Thus, having into account the evidence, oral as well as documentary, adduced by complainant, and settled proposition of law, cited above, in the considered opinion of this Court, both

accused No.1 and accused No.2 are equally liable for the circumstances they created and compelled and consequently abetted the deceased to finish his life. Against both accused there is not only prima facie evidence but sufficient evidence which is much higher in degree what is required for framing of charge against accused for commission of offence under section 306 read with Section 34 of Indian Penal Code.”

21. Coming onto the revision preferred by the other accused namely Gulzar Singh, this Court reiterates that in view of the Dying Declaration suffered by the deceased Samay Singh which was recorded by Judicial Magistrate the testimony of the complainant does make out a *prima facie* case against the accused which is sufficient for framing of charge. Resultantly, both the revision petitions are ordered to be dismissed.

22. A copy of this order be kept on the file of other connected case.

December 19, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No