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

CRR-2245-2019 (O&M)

Date of Decision:- 04.05.2023

Swaranjit Kaur

....Petitioner

Vs.

State of Punjab and Others

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

**Present:- Mr. Ashit Malik, Advocate
for the petitioner.**

Mr. Kunwarbir Singh, Assistant A.G. Punjab.

**Mr. Suvir Sidhu, Advocate
for respondents No. 2 to 6.**

AMARJOT BHATTI, J. (Oral)

CRM-5554-2023

This is an application filed by the counsel for respondents No. 2 to 6 for placing on record copy of statements of petitioners witnesses No. 1 to 12 (dated 15.03.2019 to 14.12.2020) as Annexure R-1.

For the reasons enumerated in the application, the same is allowed. Accompanied document Annexure R-1 is taken on record.

CRM stands disposed of.

CRR-2245-2019

1. Swaranjit Kaur has filed the present revision against impugned order dated 12.07.2019 passed by learned Judge, Special Court, SAS Nagar (Mohali) vide which application under Section 319 Cr.P.C. for summoning of Harbhajan Kaur (mother-in-law), Ujjal Singh (father-in-

law), Gurpreet Singh @ Dicky (brother-in-law), Sarabjeet Kaur (sister-in-law) and Manpreet Singh (husband of sister-in-law) as additional accused was declined.

2. The facts of the case are that the complainant Swaranjit Kaur alias Deji gave her statement to the police that they are five sisters. The victim Dharamjit Kaur was their youngest sister. Their parents had already expired. The marriage of Dharamjit Kaur was performed with Rupinderpal Singh alias Vicky on 26.05.2013 by all the sisters and their relatives. About two and a half months earlier Dharamjit Kaur visited Kullu and disclosed that she was being taunted by husband Rupinderpal Singh alias Vicky, Gurpreet Singh alias Dicky (brother-in-law), Ujjal Singh (father-in-law), Harbhajan Kaur (mother-in-law), Sarabjeet Kaur (sister-in-law), Manpreet Singh (husband of sister-in-law) for bringing less dowry. All the sisters in consultation with each other and for the sake of Dharamjit Kaur decided to sell their ancestral house situated in Kullu. The house was sold for a sum of Rs. 32,50,000/- on 16.08.2018 and sum of Rs. 6,50,000/- each came to the share of all the sisters. At the time of aforesaid transaction, a sum of Rs. 1 lac was received as earnest money which at the instance of Dharamjit Kaur was given to her. Dharamjit Kaur got prepared one FD of this amount and she went back to her in-laws house on 27.08.2018. On 29.08.2018, Dharamjit Kaur had a talk with their sister Chanderjit and told her that her in-laws were unhappy with the preparation of FDR as they wanted money in cash. On 30.08.2018, Chanderjit called her and disclosed that Dharamjit Kaur had been burnt and killed by her in-laws family for bringing less dowry. With these allegations, present FIR No. 0225 dated 31.08.2018, under Section 304-B of the IPC, Police Station City Kharar,

SAS Nagar was registered (Annexure P-1). After the completion of

investigation, challan was presented in the Court against Rupinderpal Singh @ Vicky, whereas, the other accused named in the FIR were kept in column No. 2 of the challan report (Annexure P-2). Rupinderpal Singh was charge-sheeted under Section 304-B of IPC and in the alternative under Section 302 of IPC. The statement of the complainant Swaranjit Kaur alias Deji was recorded (Annexure P-3) and thereafter, application was filed under Section 319 Cr.P.C. to summon the other accused persons who were kept in column No. 2 of the challan report which is Annexure P-4.

The prosecution filed application by alleging that Swaranjit Kaur complainant had named all the accused when her statement was recorded by the police under Section 164 Cr.P.C. as well as in her statement recorded in the Court as PW-1. She has attributed specific role to all the accused. However, they were wrongly kept in column No. 2 of the challan report. All the accused persons connived and participated in the commission of murder of Dharamjit Kaur alongwith accused Rupinderpal Singh, who is already facing trial in this case. Therefore, all the accused namely Gurpreet Singh alias Dicky (brother-in-law), Ujjal Singh (father-in-law), Harbhajan Kaur (mother-in-law), Sarabjeet Kaur (sister-in-law) and Manpreet Singh (husband of sister-in-law) are liable to be summoned under Section 319 Cr.P.C.

3. The application was opposed by Rupinderpal Singh who is facing trial in this case by filing reply, which is Annexure P-5. After hearing arguments advanced by learned APP assisted by learned counsel for the complainant and learned counsel for the accused, the application was declined by passing detailed order dated 12.07.2019. Feeling aggrieved of this order, present revision has been filed.

4. Learned counsel for the petitioner argued that the facts of the

case and the statement of Swaranjit Kaur alias Deji recorded as PW-1 were not rightly considered by the trial Court while rejecting the application under Section 319 Cr.P.C. The complainant has levelled specific allegations against all the accused for causing harassment to Dharamjit Kaur for bringing less dowry. The ancestral house was agreed to be sold in order to satisfy the demand of her in-laws family. Dharamjit Kaur had received Rs. 1 lac as earnest money, which was deposited in the shape of FDR. The victim returned to the matrimonial home on 27.08.2018 and on 29.08.2018, she had a talk with her sister Chanderjit to whom she disclosed about the behaviour of her in-laws family that they were unhappy with the FDR prepared by her. In fact, they wanted money in cash. On 30.08.2018, Dharamjit Kaur died due to burn injuries. It is argued that she was ill treated in the matrimonial home by the entire family who were living jointly under the same roof, having common kitchen. Therefore, apart from Rupinderpal Singh @ Vicky, the other accused are also responsible for this occurrence. During the course of arguments, the learned counsel for the petitioner pointed out that he is pressing this revision only for the summoning of Harbhajan Kaur (mother-in-law) and Ujjal Singh (father-in-law) and he did not press this revision regarding the other co-accused. It was prayed that both in-laws played important role for causing harassment to Dharamjit Kaur who ultimately died on 30.08.2018. Therefore, considering the nature of offence and the specific allegations, they are required to be summoned to face trial alongwith the main accused Rupinderpal Singh @Vicky.

5. On the other hand, learned counsel representing the State filed their status report where it is alleged that the order dated 12.07.2019

passed by learned trial Court is completely in accordance with law and no

illegality can be attributed to the said order. However, the answering respondent undertakes to comply with any order or direction as passed by this Court.

6. Learned counsel for the respondents No. 2 to 6 argued that the facts of the case and the evidence on record were rightly considered by the trial Court while dismissing the application under Section 319 Cr.P.C. by passing reasoned order dated 12.07.2019. It is pointed out that all the allegations levelled against the respondents No. 2 to 6 are general in nature and vague. No specific role is attributed to them. The respondents No. 2 to 6 cannot be summoned on the basis of aforesaid vague allegations. The petitioner was required to establish more than prima facie case to summon these accused which the prosecution had failed. Even otherwise, during investigation, the respondents No. 2 to 6 were found to be innocent and they were kept in column No. 2 of the challan report. To support his arguments, learned counsel for the respondents No. 2 to 6 has relied upon the authority of the Hon'ble Supreme Court of India in **Criminal Appeal No. 644 of 2023, decided on 01.03.2023**, case titled as "Vikas Rathi Versus State of U.P. and Another" where while dealing with application under Section 319 Cr.P.C. it was clearly explained that *power of Section 319 Cr.P.C. ought to be exercised sparingly and would require much stronger evidence than mere probability of the accused persons complicity. It was reiterated that the test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge but short of satisfaction to an extent that the evidence, if goes un rebutted, would lead to conviction.* On this point, learned counsel for the respondents No. 2 to 6 has also relied upon another authority of the

Hon'ble Supreme Court of India in **Criminal Appeal No. 549 of 2023**

arising out of the **Special Leave Petition (Criminal) No. 1658 of 2020** titled as “**Juhru & Ors. Versus Karim & Anr.**” decided on 21.02.2023, where again the aforesaid guidelines were reiterated as in the case of **Hardeep Singh versus State of Punjab and others**, decided by the **Constitution Bench (2014) 3 SCC 92**. Other authorities are also relied upon. It is argued that on the basis of vague and general allegations, the respondents No. 2 to 6 could have not been summoned and their application to summon the additional accused in application under Section 319 Cr.P.C. was rightly declined.

7. I have considered the arguments advanced by learned counsel for the petitioner as well as learned counsel representing the State and learned counsel for respondents No. 2 to 6. In the case in hand, FIR was registered on the statement of Swaranjit Kaur where she alleged that marriage of her younger sister Dharamjit Kaur was performed with Rupinderpal Singh @ Vicky on 26.05.2013. As per her version, she was maltreated in the matrimonial home by her husband Rupinderpal Singh @ Vicky, Harbhajan Kaur (mother-in-law), Ujjal Singh (father-in-law), Gurpreet Singh @ Dicky (brother-in-law), Sarabjeet Kaur (sister-in-law) and Manpreet Singh (husband of sister-in-law). She further alleged that about two and a half months ago when she came to Kullu, all the sisters decided to sell their ancestral house for a sum of Rs. 32,50,000/- and the share of each sister was Rs. 6,50,000/-. The earnest money of Rs. 1 lac was taken by Dharamjit Kaur which she got converted into FDR in her own name and she returned to her in-laws house in Kharar on 27.08.2018. On 29.08.2018, Dharamjit Kaur had a talk with her sister Chanderjit and informed that she was being harassed by her in-laws family for preparing FDR as they wanted money in cash. On 30.08.2018, Chanderjit informed

on telephone to Swaranjit Kaur that Dharamjit Kaur has been burnt and killed by her in-laws family. The copy of FIR is Annexure P-1. The investigation was carried out and in this case, only husband Rupinderpal Singh @ Vicky was challaned whereas the other accused were found to be innocent and were kept in column No. 2 of the challan report. The copy of challan report is Annexure P-2. The prosecution evidence was recorded and after the recording of statement of Swaranjit Kaur as PW-1, the prosecution alongwith complainant filed application under Section 319 Cr.P.C. for summoning of the remaining accused. The application is Annexure P-4 and the reply submitted by the accused facing trial is Annexure P-5. This application was declined by the trial Court by passing impugned order dated 12.07.2019. The contents of FIR as well as the statement of Swaranjit Kaur as PW-1 indicate that the allegations levelled in this case are general in nature. No specific role is attributed to Harbhajan Kaur (mother-in-law), Ujjal Singh (father-in-law), Gurpreet Singh @ Dicky (brother-in-law), Sarabjeet Kaur (sister-in-law) and Manpreet Singh (husband of sister-in-law). I have also gone through the cross-examination of Swaranjit Kaur PW-1 where it has come on record that family of Rupinderpal Singh @ Vicky had visited Manikaran Sahib Gurudwara to see a girl for the brother of Rupinderpal Singh @ Vicky. On the same day, the talks regarding marriage of Rupinderpal Singh @ Vicky with Dharamjit Kaur started and on the very next day, the marriage was solemnized in a simple manner. I have also gone through the statement of Chanderjit PW-7 recorded during the pendency of the trial. Even in that statement, no specific role is attributed to the respondents No. 2 to 6. During the course of arguments, the learned counsel for the petitioner

pressed for the present petition qua mother-in-law Harbhajan Kaur and father-in-law Ujjal Singh. This petition was not pressed for regarding the other petitioners. For the disposal of present petition, I put reliance upon the judgment cited in (2014) 3 SCC 92 titled “Hardeep Singh Versus State of Punjab and Others” where it was explained *that powers under Section 319 Cr.P.C. is discretionary and extra ordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence laid before the Court that such power should be exercised and not in a casual and cavalier manner.* The same principles were also followed by the Hon’ble Supreme Court of India in case titled 2019(5) R.C.R.(Criminal) 946, titled “Shiv Prakash Mishra Versus State of Uttar Pradeesh and Another”. It was further explained *that for the summoning of additional accused the standard of proof employed for summoning person as an accused person under Section 319 Cr.P.C. is higher than standard of proof employed for framing charge against accused person.* The same principle was followed in the authorities referred above by learned counsel for respondents No. 2 to 6. Therefore, as referred above, the allegations in the FIR as well as in the statements of Swaranjit Kaur PW-1 and Chanderjit PW-7 are general in nature, therefore, I do not find sufficient material on the record to summon the respondents No. 2 to 6 as accused to face trial alongwith the main accused Rupinderpal Singh @ Vicky. The order passed by learned Judge, Special Court, SAS Nagar (Mohali) dated 12.07.2019 does not suffer from

illegality or irregularity, therefore the same is accordingly upheld and the present revision preferred by the petitioner – Swaranjit Kaur is accordingly declined.

My above observations are made for the decision of present revision and it shall not be construed as expression of opinion on the merits of the main case as the same will be decided on the basis of evidence led before the trial Court.

Pending application(s), if any also stands disposed of.

04.05.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No