

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

CRR-2335-2019 (O&M)
Reserved on:- 14.03.2023
Pronounced on:- 29.03.2023

Vipan Kumar Dhir

....Petitioner

Vs.

Dr. Navjiwan Bhalla and others

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. A.K. Kalsy, Advocate
and Mr. Abhimanyu Kalsy, Advocate
for the petitioner.

Mr. M.S.Joshi, Addl. A.G. Punjab.

Mr. Sunil Chadha, Senior Advocate
with Mr. Tara Dutt, Advocate and
Mr. Saurav Kanojia, Advocate
for the respondents No. 1 to 4.

AMARJOT BHATTI, J.

1. The petitioner/complainant has filed present revision against impugned order dated 14.08.2019 passed by learned Additional Sessions Judge, Ludhiana vide which application to summon additional accused under Section 319 Cr.P.C. was dismissed.

2. The facts of the case are that Vipan Kumar Dhir, the complainant gave his statement to the police that his daughter i.e. the victim had studied upto M.Sc, M.Ed and she had cleared UGC NET and was working as a lecturer in Master Tara Singh College, Sabzi Mandi, Ludhiana. Her marriage was performed with Gaurav Adya on 28.07.2017 by spending huge amount of Rs. 35/40 lacs. She was given dowry articles as detailed in

the FIR. However, Gaurav Adya – husband, Parveen Adya – father-in-law, Kamlesh Adya – mother-in-law and Daksh Adya – brother-in-law started harassing his daughter for bringing less dowry. They were raising demand for a car or a cash of Rs. 7 lacs. She was physically and mentally harassed. The complainant tried to make them understand but there was no change in their behaviour. They used to say that by not giving car, they have been disgraced in their brotherhood. On 30.09.2017, on the day of Dussehra, the victim called her father and disclosed that she was being harassed and physically abused on account of their demand. He made her understand that they would come to her matrimonial home on the next day. On 01.10.2017 at about 01:00 P.M, Gaurav informed that his daughter was admitted in DMC Ludhiana. He along with his wife and son reached there. He saw his daughter lying on a bed in critical condition and she disclosed in murmuring voice that in-laws family administered poison to her by fraud and she should be saved. The victim died on 02.10.2017 in the morning during treatment. With these allegations, the present FIR was registered and the investigation was started. After completion of entire investigation, the challan was presented in the Court against accused Gaurav, Parveen Adya, Daksh Adya and Kamlesh Adya, whereas, the other persons namely Dr. Navjiwan Bhalla, Mridul Bhalla, Abhinav Sharma and Anil Kumar Sharma @ Shurli were kept in column No. 2 of the challan report. After framing of charge-sheet, the statement of complainant Vipin Kumar Dhir was recorded and thereafter, application was filed under Section 319 Cr.P.C. for summoning of the other accused. The said application was declined by passing impugned order dated 14.08.2019. Feeling aggrieved of this order, the present revision has been

preferred.

3. The learned counsel for the petitioner argued that the respondents No. 1 to 4 were specifically named in the supplementary statement of the complainant dated 25.10.2017 and the said statement has been wrongly ignored. It was categorically mentioned that Dr. Navjiwan Bhalla, his son Mridul Bhalla, Abhinav Sharma and Anil Kumar Sharma @ Shurli were also involved in the commission of offence. They used to visit the in-laws house of the victim frequently and they instigated Gaurav and others in the commission of offence. The complainant further stated that all the accused in conspiracy with each other gave beating to her daughter and administered poison to her forcibly, thus, murdered her. The statements of Indu Dhir, Raghubir Chand Dhir, Nihang Harchand Singh and Narinder Kumar were also recorded by the police during investigation, levelling specific allegations against them. They played active role in the commission of offence. There is statement of Vipin Kumar Dhir complainant as PW-1, Annexure P-1 where he has specifically named the respondents No. 1 to 4 and specific role is attributed to them. During inquiry, the respondents No. 1 to 4 were wrongly declared innocent. In fact, no proper inquiry was conducted nor the complainant was joined during the said inquiry. There is sufficient cogent evidence on record against the respondents No. 1 to 4. Considering the specific role attributed to them, they are required to be summoned in the application under Section 319 Cr.P.C. to face trial along with other accused. Without considering the record on the file, the application filed under Section 319 Cr.P.C. was wrongly declined. It is prayed that the impugned order dated 14.08.2019 may be set aside and the respondents No. 1 to 4 be also

summoned to face trial along with other accused.

4. On the other hand, the learned counsel for the respondents No. 1 to 4 argued that the facts of the case and the documents on record were rightly considered by the trial Court and the application filed by the prosecution/complainant under Section 319 Cr.P.C. was rightly declined. After the registration of FIR, the inquiry was conducted by Additional Deputy Commissioner of Police, Zone-I, Ludhiana and even during that inquiry, the present respondents No. 1 to 4 were found to be innocent. It is pointed out that Vipin Kumar Dhir, the complainant initially did not name the present respondents No. 1 to 4 in the commission of offence. They are falsely named in this case by giving supplementary statement dated 25.10.2017. In fact, the respondents No. 1 to 4 had no role to play in the matrimonial life of the victim or the accused who are facing trial. The complainant has wrongly named them as accused in the commission of offence which is never committed by them. Therefore, the facts of the case and the documents on record were rightly considered and the application filed by the prosecution under Section 319 Cr.P.C. was rightly declined.

5. I have considered the arguments and have gone through the record carefully. As per the facts of the case, FIR was registered on the statement of Vipin Kumar Dhir under Section 302, 304-B, 120-B of IPC. The complainant has levelled the allegations regarding maltreatment and harassment caused to his daughter i.e. the victim by her in-laws family on account of their demand for dowry, as a result of which she was admitted in the hospital due to consumption of poisonous substance on 01.10.2017 and the victim lost her life on 02.10.2017 during her treatment in DMC, Ludhiana. In the case in hand, Gaurav Adya – husband, Parveen Adya –

in-law are facing trial in this case under Section 304-B, 120-B of IPC. It cannot be disputed that the daughter of complainant i.e. the victim was well educated girl whose marriage was performed with Gaurav Adya on 28.07.2017. As per the version of complainant, he had spent huge money on the marriage of his daughter. She was harassed and maltreated in the matrimonial home as she did not bring a car in dowry. She was taunted that her father who retired as District Attorney neither gave a car nor gave Rs. 7 lacs for purchasing a car. As a result of the said maltreatment, the victim died unnatural death in the matrimonial home. She was taken to DMC, Ludhiana for treatment but her precious life could not be saved. In this FIR, Gaurav Adya – husband, Parveen Adya – father-in-law, Kamlesh Adya – mother-in-law and Daksh Adya – brother-in-law are already facing trial. The prosecution filed application during trial under Section 319 Cr.P.C. for summoning of other accused i.e. Dr. Navjiwan Bhalla, family friend of the in-laws family of the victim, his son Mridul Bhalla, Abhinav Sharma friend of accused Daksh Adya (brother-in-law of deceased victim) and Anil Kumar @ Shurli, friend of Gaurav Adya (husband of deceased victim).

For the disposal of present revision, we are required to see the role played by respondents No. 1 to 4 in the commission of offence for the purpose of summoning in application under Section 319 Cr.P.C. I have gone through the contents of the FIR where no specific role was attributed to respondents No. 1 to 4. It was alleged by the complainant that his daughter i.e. the victim disclosed to him that the respondents No. 1 to 4 used to come to their house often and instigated her husband and in-laws family to compel her to bring more dowry and a car from her parental

house. After the registration of this FIR on 02.10.2017, there is supplementary statement of complainant recorded on 25.10.2017, where it was alleged that on the day of said occurrence, the accused who are facing trial in this case along with respondents No. 1 to 4 forcibly administered poison to the victim. The complainant has stepped into the witness box as PW-1 where he narrated all these facts. Initially, when the statement of complainant was recorded by the police, this fact was not mentioned. It cannot be ignored that during the investigation of the case, inquiry was conducted and the respondents No. 1 to 4 were found to be innocent. Even otherwise, the respondents No. 1 to 4 are not related to the accused persons who are facing trial in this case. It is alleged that Dr. Navjiwan Bhalla and his son Mridul Bhalla are family friends of the accused facing trial in this case and regarding Abhinav Sharma, he is the friend of Daksh Adya, whereas, Anil Kumar Sharma @ Shurli is the friend of husband Gaurav Adya. These respondents no. 1 to 4 are residing at different places. They were not to be benefited in any manner if any dowry articles were given by the family of victim. During inquiry, it came on record that the respondents No. 1 to 4 had visited the hospital. In case, the respondents No. 1 to 4 came to the hospital in support of the accused who are facing trial in this case that does not mean that they played any role in the commission of offence.

Therefore, considering the facts and circumstances of the case and the record available on file, it is to be seen whether there is sufficient evidence on record to summon the respondents No. 1 to 4 to face trial alongwith other accused. No doubt the application under Section 319 Cr.P.C. for the summoning of additional accused can be filed at any stage

of the trial. However, the role played by the accused has to be scrutinized carefully regarding whom the application under Section 319 Cr.P.C. has been filed. There is authority of Apex Court cited in **2019(5) R.C.R. (Criminal) 946**, titled as **Shiv Prakash Mishra Versus State of Uttar Pradesh and Another**, where it was explained that “the standard of proof employed for summoning a person as an accused person under Section 319 Cr.P.C. is higher than standard of proof employed for framing charge against accused person. It was held that power under Section 319 Cr.P.C. should be exercised sparingly.”

In the light of the facts of the case, the learned Additional Sessions Judge, Ludhiana, in my opinion has rightly declined the application filed by the prosecution under Section 319 Cr.P.C. The impugned order dated 14.08.2019 does not require any interference and the same is accordingly, upheld and the revision preferred by the petitioner is accordingly, declined.

The revision is accordingly, disposed of.

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

29.03.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No