

CRR-76-2016

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239 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-76-2016

Decided on:-01.03.2024

Sahil Singla @ Sallu and others

....Petitioners..

VS.

State of Punjab and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Akashdeep Singh, Advocate,
for the petitioners.

Mr. Siddharth Sandhu, AAG, Punjab.

Mr. Shivdeep, Advocate for
Mr. Sandeep Majithia, Advocate,
for the complainant.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, prayer has been made for setting aside an order dated 19.10.2015 passed by the Court of learned Additional Sessions Judge, Ludhiana, whereby the petitioners were summoned as additional accused on an application under Section 319 Cr.P.C. made by the prosecution.

2. Having been implicated as accused in FIR No.62 dated 11.04.2014, registered under Sections 304-B and 34 IPC, at Police Station City Jagraon, District Ludhiana, at the instance of respondent No.2, on account of unfortunate demise of his daughter, namely, Shweta Singla, who happened to be the wife of petitioner No.1 and daughter-in-law of petitioners

No.2 and 3, the petitioners were initially declared innocent by the Investigating Agency and challan under Section 306 IPC was presented against one Hitesh Singla. Charges in the aforementioned case were framed by the Trial Court on 11.04.2016, followed by appearance of respondent No.2 as PW-1, who again reiterated his version recorded in the FIR, implicating the petitioners as well. Relevant portion thereof is extracted hereunder:-

“I have two children. Elder is daughter Shweta Singla and younger is son Gaurav Goel. The marriage of my elder daughter Shweta was solemnized with Sahil Singla s/o Ashok Kumar Singla, resident of Grewal Colony, Jagraon in February, 2009. At the time of marriage, I had given dowry articles to my daughter and her in-laws' beyond my capacity. After marriage, one son took birth to my daughter Shweta, who is now aged about four years. After marriage, my daughter Shweta Singla often used to tell us telephonically that her in-laws including her husband Sahil Singla, father-in-law Ashok Kumar Singla and mother-in-law Kusum Singla used to harass her for dowry and used to demand money. In order to settle my daughter Shweta Singla in her matrimonial house, I kept on giving money to her in-laws' from time to time but even then their greed did not end. Tonight at about 1.00 A.M. telephone call was received on mobile phone of my wife Kusum Goel 98728-51930 from my son-in-law Sahil Singla, who firstly told my wife and then talked to me and stated that Shweta had jumped from the roof of kothi and shrieks of my daughter Shweta were being heard in phone saying, "she is dying, she is dying". Thereafter Sahil Singla talked to my son Gaurav Singla and informed that they were taking Shweta to Kalyani Hospital, Jagraon. Then I along with my wife, son and other relatives reached Kalyani hospital, Jagraon and came to know that my wife Shweta had died.”

3. Based on the aforementioned deposition made by respondent No.2(PW-1), prosecution moved an application under Section 319 Cr.P.C. for summoning the petitioners as additional accused to face trial, which came to be allowed by the trial Court vide order dated 19.10.2015. Hence, the present revision petition.

4. Impugning the aforesaid order, learned counsel for the petitioners submits that the deposition of respondent No.2 as PW-1 was merely reiteration of version recorded in the FIR, which already stood investigated by the Investigating Agency in thorough manner, finding the petitioners to be innocent. He also points out that even if the deposition of respondent No.2 is taken at face value, no offence at all is made out against the petitioners, in the absence of there being mentioning of any specific date, month or instance about the demand of dowry or harassment being meted out by the deceased.

Learned counsel also places reliance upon the statement made by learned counsel representing respondent No.2 recorded in the order dated 17.05.2017 passed by this Court, to contend that respondent No.2 now been aware of the reality was not opposing the prayer made in the present petition. The order dated 17.05.2017 is reproduced hereunder:-

“Counsel for respondent No.2 has stated that as per his instructions, he does not oppose prayer of the petitioners. There is no representation on behalf of the petitioners.”

5 On the other hand, learned State counsel while referring to the order passed by the Court below, besides the deposition of PW-1 submits that a clear cut case of Section 304-B IPC was made out against the

petitioners as there were specific allegations of harassment and demand of dowry on their part and thus, the impugned order warrants no interference.

6. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioners.

7. A perusal of deposition made by respondent No.2-Brij Bhushan (PW-1) i.e. the complainant (father of the deceased) shows that it is mere reiteration of version reported in the FIR. There was no specific or categorical allegation regarding the demand of dowry or harassment made by the deceased. Neither any date, month or year was mentioned about the harassment met by the deceased, nor any averment was made as regards any complaint made to any authority in this regard and thus, based on such vague allegations made in the FIR, the Investigating agency at the first instance having thoroughly scrutinized the same, found the petitioners to be innocent. In the given facts, mere reiteration of the accusations made in the FIR by respondent No.2-complainant (PW-1) in the absence of there being any explanation rendered by him to the investigation carried out by the police, wherein an altogether different angle to the entire incident was unearthed with the involvement and implication of one Hitesh Jindal, who remained in constant touch with the deceased just prior to the incident, could not have been made the basis for summoning the petitioners as additional accused in the FIR in question.

The trial Court while passing the impugned order failed to appreciate the aforesaid aspect of the matter, having exceeded its jurisdiction and thus, in the totality of facts and circumstances as well as in view of the

discussion made herein above besides the stand taken by respondent No.2 in the present revision, which was recorded on 17.05.2017, the present petition is allowed. Resultantly, the impugned order dated 19.10.2015, is hereby set aside.

01.03.2024
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(HARKESH MANUJA)
JUDGE

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