

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRM-33767-2021 in/and
CRR-1164-2021 (O & M)
Date of decision: 24.04.2024

JAGAT RAM

...PETITIONER

V/S

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manish Mehta, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. H.S. Randhawa, Advocate for
Mr. P.S. Ahluwalia, Advocate for respondent Nos.2 to 5.

HARPREET SINGH BRAR J. (ORAL)

1. Prayer in the instant petition is for setting aside the impugned order dated 14.11.2019 passed by learned Addl. Sessions Judge, Narnaul, whereby the application under Section 319 Cr.P.C. filed by the petitioner in case FIR No.342 dated 19.11.2018 under Sections 302, 304-B, 498-A, 34 IPC, P.S. Sadar, Narnaul has been dismissed vide order dated 11.03.2019.

2. The FIR was lodged on the allegations that the daughter (since deceased) of the petitioner/complainant was married to one Parveen (son of respondent Nos.2 and 3) on 26.01.2014, wherein a handsome dowry was given to accused Parveen and his family (private respondents) and about Rs.17,00,000/- were spent on the wedding ceremony. Out of the wedlock, a male child was born. The family of the accused, namely, Parveen was not satisfied with the dowry given in marriage and they had been harassing, maltreating and cruelly treating the deceased daughter of the complainant and used to demand Rs.5,00,000/- and a car. Accused Parveen and his family members (private respondents) also used to give beatings to deceased (daughter

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of complainant) and turned her out of the matrimonial house. Thereafter, on 23.08.2017, following a compromise being effected, the accused-Parveen and his family took back the deceased. Suddenly on 18.11.2018, brother of deceased was telephonically informed that she is seriously ill and when the family of deceased reached the spot, they found their daughter lying dead in the room. Hence, the FIR (supra) was registered.

3. On 10.04.2024, the following order was passed :

“Learned counsel for respondents No.2 to 5 submits that power under Section 319 Cr.P.C. cannot be invoked at this stage as the trial of the FIR (supra) has already been concluded vide judgment dated 21.07.2023 and reliance in this regard has been placed upon the judgment of the Hon’ble Apex Court passed in ‘Sukhpal Singh Khaira Vs. State of Punjab’ 2023 (4) R.C.R. (Criminal) 108.

Learned counsel for the petitioner seeks time to address arguments on this issue.

Adjourned to 24.04.2024.”

4. Learned counsel for both the parties are *ad idem* that after the conclusion of the trial, the power under Section 319 Cr.P.C. cannot be invoked.

5. A Constitutional Bench of the Hon’ble Supreme Court in ***Sukhpal Singh Khaira v. State of Punjab, (2023) 1 SCC 289*** considered the scope of Section 319 of Cr.P.C. and answered the questions referred therein as follows :

“39.(I) Whether the trial court has the power under Section 319CrPC for summoning additional accused when the trial with respect to other co-accused has ended and the judgment of conviction rendered on the same date before pronouncing the summoning order?

The power under Section 319CrPC is to be invoked and exercised before the pronouncement of the order of sentence where there is a judgment of conviction of the accused. In the case of acquittal, the power should be exercised before the order of acquittal is pronounced. Hence, the summoning order has to precede the conclusion of trial by imposition of sentence in the case of conviction. If the order is passed on the same day, it will have to be

examined on the facts and circumstances of each case and if such summoning order is passed either after the order of acquittal or imposing sentence in the case of conviction, the same will not be sustainable.

40.(II) *Whether the trial court has the power under Section 319CrPC for summoning additional accused when the trial in respect of certain other absconding accused (whose presence is subsequently secured) is ongoing/pending, having been bifurcated from the main trial?*

The trial court has the power to summon additional accused when the trial is proceeded in respect of the absconding accused after securing his presence, subject to the evidence recorded in the split-up (bifurcated) trial pointing to the involvement of the accused sought to be summoned. But the evidence recorded in the main concluded trial cannot be the basis of the summoning order if such power has not been exercised in the main trial till its conclusion.”

6. In view of the law laid down in **Sukhpal Singh Khaira** (*supra*), no further interference is required in the matter and the present petition stands disposed of.

7. Pending miscellaneous application(s), if any, also stand(s) disposed of.

April 24, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No