



CRM-M-6717-2025

-1-

121

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

**CRM-M-6717-2025
Date of Decision: 05.02.2025**

Sarabjit Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Balwant Singh, Advocate for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 528 of BNSS, 2023 for seeking quashing of the order dated 10.01.2023 passed by learned JMIC, Jalandhar (Annexure P-3) vide which the application under Section 319 Cr.P.C. filed by the prosecution has been dismissed whereby respondents No.2 & 3 were not summoned as additional accused to face the trial in case bearing FIR No.25, dated 11.04.2019, under Sections 406 & 498-A IPC registered at Police Station Women, Jalandhar and also to set aside the impugned order dated 10.12.2024 (Annexure P-4) passed by learned Addl. Sessions Judge, Jalandhar whereby the revision petition filed by the petitioner against the aforesaid order dated 10.01.2023 has also been dismissed.

2. Learned counsel for the petitioner submitted that it is a case where a complaint was made by the petitioner/wife to the police against her husband, namely, Vijay Kumar as well as against respondents No.2 & 3 because respondent No.2 is the mother-in-law and respondent No.3 is the sister-in-law of the petitioner. He further submitted that during investigation,



CRM-M-6717-2025

-2-

respondents No.2 & 3 were found to be innocent and challan was presented only against the husband of the petitioner. He also submitted that when an application under Section 319 Cr.P.C. was filed by the petitioner, the same has been erroneously dismissed by learned trial Court vide order dated 10.01.2023 and thereafter, the petitioner preferred a revision petition before the learned Additional Sessions Judge, Jalandhar, the same was also dismissed and therefore, both the impugned orders are liable to be set aside.

3. I have heard the learned counsel for the petitioner.

4. It is a case where the petitioner has challenged the order dated 10.01.2023 passed by learned JMIC, Jalandhar by which the application under Section 319 Cr.P.C. has been dismissed vide Annexure P-3. The petitioner has preferred a revision petition for challenging the aforesaid impugned order before learned Additional Sessions Judge, Jalandhar which was also dismissed vide order dated 10.12.2024 vide Annexure P-4. The present is a petition filed under Section 528 of BNSS, 2023 Act for quashing both the aforesaid orders. When a complaint was filed by the petitioner against her husband, mother-in-law and sister-in-law, the FIR was registered only against the husband and the mother-in-law and the sister-in-law were not found to be involved in the offence. While dealing with the application under Section 319 Cr.P.C., learned JMIC had considered the entire aspect with regard to the allegations made by the petitioner. A perusal of the order passed by learned JMIC would show that it has been so observed from a perusal of the contents of the original complaint that *prima facie* it shows that the petitioner has narrated no specific allegations against the proposed persons in relation to demand of dowry in her entire complaint and it was repeatedly stated in the complaint that her husband, namely, Vijay Kumar



CRM-M-6717-2025

-3-

caused cruelty upon her on account of demand of dowry and except this, there was no other instance of demand of dowry which is shown in the complaint. When the petitioner filed a revision petition before learned Additional Sessions Judge, learned Revisional Court had considered the submissions of the petitioner in its entirety and it was observed that it has come to light from the testimony of petitioner (PW-1) that while stepping into the witness-box she had made material improvements regarding entrustment of gold ornaments to the respondents and their consequent misappropriation. It was further observed by learned Revisional Court that respondent No.2 & 3 cannot be summoned on the basis of improvement made by the petitioner/wife while deposing and while stepping into the witness-box. Learned Additional Sessions Judge has also considered the aspect of tendency of implicating the relatives of the husband in today's time and has also referred to numerous judgments of different High Courts and Hon'ble Supreme Court in this regard and ultimately came to the conclusion that there was no illegality found in the order passed by learned JMIC and therefore, the revision petition was dismissed.

5. This Court after perusing both the impugned orders (Annexures P-3 & P-4, respectively) and the submissions made by the learned counsel for the petitioner, is of the considered view that the concurrent finding of facts made by both the learned Courts below and also the fact that there was no specific allegations against the mother-in-law and the sister-in-law, who are respondents No.2 & 3 and the entire focus in the complaint and in the FIR was against the husband and learned trial Court as well as learned Revisional Court have rightly exercised their power in not summoning respondents No.2 & 3 as additional accused in the application moved by the



CRM-M-6717-2025

-4-

petitioner under Section 319 Cr.P.C. The law in this regard pertaining to exercise of power under Section 319 Cr.P.C. is no longer *res integra*. A Constitutional Bench of Hon'ble Supreme Court in "**Hardeep Singh Vs. State of Punjab**" (2014) 3 SCC 92, had considered the aforesaid issue. The relevant portion of the same is reproduced as under:-

"105. Power under section 319 CrPC, 1973 is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not 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 led before the court that such power should be exercised and not in a casual and cavalier manner.

106. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court, not necessarily tested on the anvil of cross-examination, it requires much stronger evidence than mere probability of his complicity. 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. In the absence of such satisfaction, the court should refrain from exercising power under section 319 CrPC, 1973. In section 319 CrPC, 1973 the purpose of providing if "it appears from the evidence that any person not being the accused has committed any offence" is clear from the words "for which such person could be tried together with the accused". The words used are not "for which such person could be convicted". There is, therefore, no scope for the court acting under section 319 CrPC, 1973 to form any opinion as to the guilt of the



CRM-M-6717-2025

-5-

accused."

6. It is a settled law that at the time of considering the application for summoning of an additional accused, the Court has to record more than *prima facie* satisfaction based upon material on record and the standard of proof is much higher than even the proof which is required for framing of the charges. When there are no specific allegations against respondents No.2 & 3 and whatever allegations are there, the same being general and vague in nature and in the absence of any such cogent and strong reason/material, respondents No.2 & 3 could not have been summoned as additional accused. Therefore, this Court is of the considered view that no illegality and perversity can be found in both the impugned orders passed by both the learned Courts below. Consequently finding no merit in the present petition, the same is hereby dismissed.

05.02.2025

*Bhumika***(JASGURPREET SINGH PURI)**
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |