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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27606-2017

Date of Decision:- 30.01.2025

Umesh and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Jagmohan Ghumman, Advocate and
Ms. Apoorva Arya, Advocate
for the petitioners.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Sanjay Verma, Advocate with
Mr. Pravesh Bishnoi, Advocate
for respondent No. 2.

AMARJOT BHATTI, J.(Oral)

1. Petitioners Umesh, Kavita and Parminder have filed petition under Section 482 of Cr.P.C. for quashing of impugned order dated 11.07.2017 passed by learned Additional Sessions Judge, Gurgaon (Annexure P-1) vide which order passed by trial Court dated 13.06.2016 (Annexure P-2) has been set aside and case was remanded back to trial Court with direction to pass fresh order in accordance with law laid down by Hon'ble Supreme Court of India in case titled "Hardeep Singh Vs. State of Punjab and others" or any other direction which the Court may deem fit and proper in the given facts and circumstances of case.

2. Learned counsel for petitioners raised issue that on the complaint of Smt. Poonam, FIR No. 1058 dated 16.12.2014 was registered



under Section 498-A, 406, 323 and 506 of IPC at Police Station Civil Lines, Gurgaon. There were allegations of maltreatment and demand of dowry. In aforesaid FIR, trial is already going on and during pendency of said trial prosecution filed application under Section 319 Cr.P.C. which was declined by passing well-reasoned order dated 13.06.2016 (Annexure P-2). Said order was challenged by complainant Poonam and by accepting revision, impugned order dated 13.06.2016 was set aside and case was remanded back to trial Court with direction to pass fresh order in accordance with law laid down by Constitution Bench of Hon'ble Supreme Court in case titled "**Hardeep Singh Vs. State of Punjab & Others**" **2014(1) RCR (Criminal) 623**. There was no justification to remand the case to trial Court. Present petitioners Umesh is brother-in-law/*devar*, petitioner No. 2 Kavita is sister-in-law and petitioner No. 3 Parminder is husband of Kavita petitioner No. 2. They had no role in matrimonial life of respondent No. 2. Order passed by trial Court did not require any interference. Therefore, impugned order dated 11.07.2017 passed by learned Additional Sessions Judge, Gurgaon (Annexure P-1) may kindly be quashed.

3. On the other hand, learned counsel representing State admitted factual position as discussed above. Present petition is opposed by learned counsel representing respondent No. 2. It is pointed out that learned trial Court was required to pass well-reasoned order to justify dismissal of application under Section 319 Cr.P.C. Therefore, impugned order dated 11.07.2017 does not require any interference.



4. I have considered the arguments and have gone through the record carefully. Factual position is not disputed. During pendency of trial, respondent No. 2 filed application under Section 319 Cr.P.C. for summoning of additional accused i.e. present petitioners. Said application was declined by learned Judicial Magistrate First Class, Gurgaon vide order dated 13.06.2016 (Annexure P-2). Feeling aggrieved of this order, respondent No. 2 filed revision which was accepted by passing impugned order dated 11.07.2017 (Annexure P-1) vide which order dated 13.06.2016 was set aside and case was remanded back to trial Court for passing fresh order taking into account law settled by Constitution Bench of Hon'ble Supreme Court on the aspect of powers to be exercised for summoning of additional accused on application under Section 319 Cr.P.C. At this stage, trial Court is to decide application filed under Section 319 Cr.P.C. afresh taking into account initial stand taken by complainant supported by documents or statements of witnesses recorded by Investigating Agency as well as stand taken by complainant when she stepped into the witness box during proceedings of trial. Legal position is settled regarding summoning of additional accused on application under Section 319 Cr.P.C. Petitioners can raise their arguments before the trial Court where application under Section 319 Cr.P.C. is to be decided on merits.

In the light of this, I do not find any valid reason to interfere in impugned order dated 11.07.2017 passed by learned Additional Sessions Judge, Gurgaon (Annexure P-1) and accordingly, petition filed by petitioners Umesh, Kavita and Parminder stands dismissed.



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Aforesaid observation will have no bearing on the merits and trial Court may proceed with application under Section 319 Cr.P.C. as per law.

5. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

30.01.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No