



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

CRR-1424-2016 (O&M)
Reserved on:- 22.5.2025
Date of Decision: 10.6.2025

Sukhwinder Rai

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Argued by: Mr. Jasraj Singh, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Akshat Dalal, Advocate
for respondent No. 2.

KIRTI SINGH, J.

1. The instant revision petition has been filed against the impugned order dated 4.3.2016 passed by the learned Additional Sessions Judge, Hoshiarpur, whereby the application filed by the prosecution under Section 319 Cr.P.C. has been allowed qua petitioner Sukhwinder Rai, and he has been summoned to face trial as additional accused under in case FIR No. 33 dated 17.4.2014 under Sections 304-B and 201 of the IPC, registered at Police Station Mehtiana, District Hoshiarpur.

Brief facts of the case

2. The present FIR was registered under Sections 304-B and 201 IPC on the basis of a statement made by the complainant-respondent No.2, who is the father of the deceased alleging that his daughter had suffered maltreatment and harassment at the hands of her in-laws due to demands of dowry, which ultimately led to her death. The present petitioner has been



nominated in the instant FIR being the *jeth* (brother-in-law) of deceased daughter of the complainant, who was married to the younger brother of the petitioner namely Varinder Rai on 31.3.2013. Pursuant to the registration of the present FIR, the matter was inquired and the petitioner was exonerated in the present case. Subsequently, the trial qua the other accused continued and on 23.9.2015, the complainant-respondent No. 2 was examined as PW-1 and on the basis of his testimony, an application under Section 319 Cr.P.C. was moved by the prosecution for summoning of the petitioner as an additional accused. Vide the impugned order dated 4.3.2016, passed by the learned Additional Sessions Judge, Hoshiarpur, the said application was partly allowed and the petitioner was summoned to face trial as an additional accused in the instant FIR. Hence, the present petition.

Submissions of the learned counsel for the petitioner

3. Learned counsel for the petitioner submits that the petitioner is the elder brother-in-law (*jeth*) of the deceased, who at the time of the alleged occurrence, was residing separately, along with his wife and minor son aged about 2½ years, from his brother Varinder Rai (husband of the deceased). He further submits, that the allegations levelled against the petitioner are general, vague and omnibus in nature. Further, PW-1 complainant Harmesh Lal in his examination-in-chief, had only reiterated the allegations as made in the FIR, wherein it was stated that on the day of the alleged occurrence, i.e. on 17.4.2014, when he made a telephonic call to his daughter and asked her as to who was present in the house, thereupon she replied that her mother-in-law and sister-in-law were present in the house and were quarreling with her. Learned counsel submits that even if the said version is considered to be true, though the same has not been independently corroborated by any evidence and is in the nature of hearsay, the same



indicates that it is not even prosecution's own case that on the day of alleged occurrence, the petitioner was present in the matrimonial house of the deceased. As such, the petitioner should not be allowed to be summoned under Section 319 Cr.P.C. In support of his arguments, the learned counsel for the petitioner has placed reliance on (i) ***Hardeep Singh versus State of Punjab*** reported in ***2013(3) SCC 92***, (ii) ***Juhru versus Karim*** reported in ***2023(5) SCC 406***, and (iii) ***Mirza Iqbal @ Golu versus State of Uttar Pradesh*** reported in ***2022(1) RCR (Criminal) 340***.

Submissions of the learned counsel for the complainant-respondent No. 2

4. Learned counsel for the complainant-respondent No. 2 submits that there is no infirmity in the impugned order passed by the learned trial Court, and the same is a well-reasoned and sound order passed after a thorough appreciation of the facts of the case. The sequence of events leading to the summoning of the petitioner as an additional accused underscores the systematic cruelty and harassment meted out to the deceased at her matrimonial home, in which the petitioner played a significant role. The marriage of the daughter of the complainant-respondent No. 2 was solemnized with Varinder Rai, who is the younger brother of the present petitioner, as per the religious rites and customs on 31.3.2013. Following the marriage, the daughter of the complainant commenced her matrimonial life at the house of her in-laws and after about one or two months from the marriage, her husband Varinder Rai proceeded abroad. Subsequently, the in-laws family of the deceased started subjecting her to harassment and cruelty for bringing insufficient dowry.

5. Learned counsel for respondent No. 2 further submits that the impugned order passed by the learned trial Court concerned, summoning the petitioner as an additional accused, is founded upon meticulous appreciation



of specific, direct and compelling evidence, which emerged during the examination-in-chief of PW-1 Harmesh Lal. He further submits that the sworn testimony of PW-1 unequivocally implicates the petitioner in the persistent and cruel demands for dowry and the relentless harassment meted out to the deceased, which tragically culminated in her unnatural death within approximately one year of her marriage. It is further argued that as per the post-mortem report, there is a ligature mark on the neck of the deceased, which firmly indicates towards her unnatural death.

6. Learned counsel further submits that in the instant FIR, the complainant has specifically named the petitioner as being one among those who subjected his daughter to taunts and harassment for bringing insufficient dowry. Moreover, PW-1 in his examination-in-chief has also detailed the demands raised by the in-laws family of his deceased daughter, including a specific demand for a gold ring of two tola and double bed blankets by Mandeep Kaur (petitioner's wife), and a collective demand by the in-laws of his deceased daughter for Rs. 50,000/- on 26.3.2014. The complainant along with the Sarpanch of the village had also visited the house of the in-laws of his daughter and tried to make them understand but they did not stop harassing her. It has been vehemently argued that on 11.4.2014 and on 17.4.2014, the deceased had telephonically informed her father (PW-1) about her sufferings and fear. The said calls were made in immediate proximity to her death. Subsequently, on 17.4.2014, at about 5.00 P.M. when PW-1 received the devastating news of death of his daughter, he visited her matrimonial home, where he observed rope type injury marks on the neck of his deceased daughter, which has been duly corroborated by the medical evidence.

7. It has also been argued that the argument of the petitioner with



respect to separate residence supported by a ration card dated 23.8.2011, is misleading and insufficient to negate his involvement in the commission of crime. He further submits that the ration card (supra) predates the marriage by nearly two years and its relevance to the period of alleged harassment after the marriage is highly questionable. Furthermore, it is submitted that the petitioner has attempted to selectively interpret the testimony of PW-1 focusing on the statement that at the time of a specific quarrel on the day of death, only the mother-in-law and sister-in-law (jethani) of the deceased were present in the house. However, the said attempt does not in any manner absolve the role of the petitioner in the continuous and preceding course of harassment and dowry demands, which as deposed by PW-1 created the hostile environment leading to the death of his daughter. In support of his arguments, the learned counsel has placed reliance on ***Satbir Singh versus Rajesh Kumar and others*** reported in ***RCR (Criminal) 465***.

Submissions of the learned State counsel

8. Learned State counsel submits that given the allegations made in the FIR and the deposition of PW-1, the learned trial Court concerned was justified in summoning the petitioner, who was actively participating in harassing the deceased for bringing insufficient dowry which led to untimely death of deceased Renu within one year of her marriage.

Inference(s) of this Court

9. Heard the rival contentions made by the learned counsels for the parties and have also pursued the records with their able assistance.

10. Before proceeding further, it is pertinent to discuss the observations made by the Hon'ble Supreme Court in some of its recent judgments. Discussing the scope of Section 319 Cr.P.C., the Constitution Bench of Hon'ble Supreme Court in ***Hardeep Singh vs. State of Punjab, SC***



2014 (1) RCR (Criminal) 623 has laid down that:

"105. Power under Section 319 Cr.P.C. 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 unrebutted, would lead to conviction. In the absence of such satisfaction, the Court should refrain from exercising power under Section 319 Cr.P.C. In Section 319 Cr.P.C. 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 Cr.P.C. to form any opinion as to the guilt of the accused."

11. The Apex Court in **Satbir Singh**'s case (supra) has observed as under:-

"14. Quite recently, a coordinate Bench of this Court in [Jitendra Nath Mishra v. State of Uttar Pradesh & Another](#) (2023) 7 SCC 344, upon considering [Hardeep Singh](#) (supra), had the occasion to observe as follows:

"10. [Section 319](#) Cr.P.C, which envisages a discretionary power, empowers the court holding a trial to proceed against any person not shown or mentioned as an accused if it appears from the



evidence that such person has committed a crime for which he ought to be tried together with the accused who is facing trial. Such power can be exercised by the court qua a person who is not named in the FIR, or named in the FIR but not shown as an accused in the charge-sheet. Therefore, what is essential for exercise of the power under [Section 319 Cr.P.C.](#), is that the evidence on record must show the involvement of a person in the commission of a crime and that the said person, who has not been arraigned as an accused, should face trial together with the accused already arraigned. However, the court holding a trial, if it intends to exercise power conferred by [Section 319 Cr.P.C.](#), must not act mechanically merely on the ground that some evidence has come on record implicating the person sought to be summoned; its satisfaction preceding the order thereunder must be more than prima facie as formed at the stage of a charge being framed and short of satisfaction to an extent that the evidence, if unrebutted, would lead to conviction.”

12. The principles of law with reference to exercise of jurisdiction under 319 Cr.P.C. are well settled. As has been opined in a plethora of judgments, it is clear that the objective to invoke the powers under Section 319 Cr.P.C., is to not allow the real perpetrators of an offence to get away unpunished. The legislative intent behind the inclusion of this provision is to prevent the miscarriage of justice by ensuring that all individuals who might have a role in the offence are brought before the court for examination, thus ensuring that no one can escape from the clasp of law simply because they were not initially identified as an accused.

13. In the instant case, complainant Harmesh Lal (PW-1), i.e., the father of the deceased, got lodged the present FIR wherein he explicitly named the present petitioner amongst the other accused, who subjected his daughter to continuous harassment and taunts for bringing insufficient dowry. It is also not disputed that on 11.4.2014 the deceased had informed



her father (PW-1) regarding the harassment and beatings given to her by her in-laws. Thereafter on 17.4.2014 at about 10.30 A.M., deceased informed his father about the harassment being suffered by her at the hands of her in-laws and also about apprehending danger to her life. Subsequently on the very same date i.e. 17.4.2014 at about 5.00 P.M., the complainant received the devastating news of untimely death of his daughter. Even in the sworn testimony of the complainant, who was also subjected to the test of cross-examination, the version as contained in the FIR was reiterated and corroborated.

14. At this stage, it is only the summoning of the petitioner to face trial for which, this Court, after considering the facts of the case in circumspection, is convinced of there being more than a prima facie case. However, it goes without saying that the veracity of allegations levelled against the petitioner is yet to be proved during the course of trial.

15. Accordingly, this Court has no hesitation to hold that the findings of the learned Addl. Sessions Judge, Hoshiarpur are plausible and do not warrant any interference by this Court.

Final order

16. For the foregoing reasons, the impugned order dated 4.3.2016 passed by the learned Addl. Sessions Judge, Hoshiarpur, is upheld. The instant revision petition is accordingly, dismissed.

17. It is clarified that no observations made hereinabove shall be construed as an expression of opinion with regard to the involvement of the present petitioner in the commission of crime and whatever has been stated above, is merely for the purpose of disposal of the present petition.

18. The learned trial Court concerned, is encouraged to take the trial to its logical conclusion in accordance with law, as expeditiously as



possible.

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

(KIRTI SINGH)
JUDGE

June 10, 2025
Gurpreet Singh

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