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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1903-2023 (O&M)
Date of decision: 26.03.2025

JASWANT KAUR

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. P. S. Bhandari, AAG, Punjab.

Mr. Tahaf Bains, Advocate
for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)

CRM-10147-2025

Prayer in this application is for placing on record the short reply filed on behalf of respondent No.2 alongwith Annexure R/2-1 to Annexure R/2-3.

For the reasons mentioned in the application, the same is allowed. The short reply filed on behalf of respondent No.2 alongwith Annexure R/2-1 to Annexure R/2-3 is taken on record, subject to all just exceptions.

CRR-1903-2023

1. The present revision petition has been filed for setting aside the impugned judgment dated 04.07.2023 passed by the learned Additional



Sessions Judge, Ludhiana, vide which the order dated 03.02.2023 passed by the learned Sub-Division Judicial Magistrate, Jagraon, whereby respondent No.2-mother-in-law of the petitioner was summoned as an additional accused was set aside.

2. The learned Sub-Division Judicial Magistrate, Jagraon by way of the aforesaid order dated 03.02.2023 allowed an application under Section 319 Cr.P.C. filed by the prosecution for summoning the mother-in-law, namely, Inderjit Kaur as an additional accused in a matrimonial dispute between the son of the aforesaid Inderjit Kaur and the petitioner. The aforesaid order dated 03.02.2023 was assailed by respondent No.2-mother-in-law by filing a revision petition, which was allowed by way of the aforesaid judgment dated 04.07.2023 passed by the learned Additional Sessions Judge, Ludhiana and now the aforesaid judgment passed by the learned Additional Sessions Judge, Ludhiana has been assailed in the present revision petition.

3. Learned counsel for the petitioner submitted that it is a case where the petitioner, who is a citizen of England got married to the son of respondent No.2 on 25.03.2008 in India in District Sangrur and thereafter, the petitioner-wife stayed in her in-laws house for a month and thereafter, she went back to England. He further submitted that at the time of marriage, some of the gold ornaments were entrusted with the family of the husband including mother-in-law, who is respondent No.2 in the present case regarding which allegations were made in the FIR itself and thereafter, reiterated specifically while deposing before the learned trial Court at the time of trial. He further submitted that the police exonerated all the family members of the husband of the petitioner but had presented challan only against the husband, who was later on declared



as a proclaimed offender and thereafter, he is now facing trial. He further submitted that the prosecution evidence is now complete and the trial is at fag end.

4. Learned counsel for the petitioner also submitted that after the statement of the petitioner-wife was recorded at the time of trial, the prosecution filed an application under Section 319 Cr.P.C. for summoning the mother-in-law, who is respondent No.2 in the present case as an additional accused on the ground that dowry articles were entrusted with her, which she has not returned and consequent upon the same, the learned Sub-Division Judicial Magistrate, Jagraon vide order dated 03.02.2023 rightly summoned respondent No.2 as an additional accused on the basis of the aforesaid deposition made in the Court. He further submitted that when a revision petition was filed by respondent No.2, the learned Additional Sessions Judge, Ludhiana has erroneously set aside the order passed by the learned Sub-Division Judicial Magistrate, Jagraon without any justification and therefore, the judgment dated 04.07.2023 passed by the learned Additional Sessions Judge, Ludhiana may be set aside. While referring to the aforesaid order passed by the learned Sub-Division Judicial Magistrate, Jagraon, he submitted that it was stated therein that the role of respondent No.2, who is the mother-in-law was specifically depicted not only in the FIR but also in the deposition made before the Court, wherein all the jewellery totalling to 30 tolas was entrusted and which has not been returned and the same is in the custody of respondent No.2-mother-in-law and when the aforesaid jewellery i.e. *istridhan* was not returned, she was directed to be summoned as an additional accused for which no fault can be



found and therefore, the aforesaid judgment passed by the learned Additional Sessions Judge, Ludhiana may be set aside.

5. On the other hand, Mr. P. S. Bhandari, AAG, Punjab has filed reply by way of an affidavit of DSP, NRI, Ludhiana in the Court today and the same is taken on record. He submitted that it was on the basis of allegations made by the petitioner-wife in the FIR and the aforesaid deposition made by her at the time of trial as PW-1 that an application under Section 319 Cr.P.C. was filed by the prosecution, vide which respondent No.2-mother-in-law was summoned as an additional accused.

6. Learned counsel for respondent No.2-mother-in-law submitted that it is a case where a matrimonial dispute arose between the son of respondent No.2 and the petitioner and it is an admitted case that the petitioner-wife just after a month of marriage had gone back to England and she is a citizen of England and it is a matter of normal practice that when a matrimonial dispute arises then all the family members of the husband are associated by the complainant in the FIR and the present was also one of those cases where vague and evasive allegations were made against respondent No.2 being mother-in-law. To substantiate his arguments, he referred to the FIR itself, which although is lengthy but the only role attributable to respondent No.2 being mother-in-law was that she had asked for all the gold ornaments so that they may remain safe and thus she got all the ornaments. He further submitted that apart from the aforesaid allegations which were *ex facie* totally vague and evasive, no other allegation was made against respondent No.2 but all the allegations were made only against the husband. He further submitted that unfortunately the marriage between the parties could not pull up and because of the matrimonial dispute, in



order to pressurize the husband, allegations were also levelled against the mother-in-law, who is now of the age of 70 years. He further submitted that when the petitioner deposed before the learned trial Court as prosecution witness as PW-1 then she improved upon her statement which she made in the complaint on the basis of which FIR was lodged and thereafter, she stated that some gold earrings and gold necklace were given to respondent No.2, whereas no such description was given in the FIR and therefore, it was a clear cut improvement of statement at the time of deposition before the Court at the time of trial. He also submitted that a further improvement was also made, wherein it was so stated that the total jewellery given at the time of marriage was 30 tolas.

7. Learned counsel for respondent No.2 also submitted that the learned Sub-Division Judicial Magistrate, Jagraon at the time of considering the application filed by the prosecution under Section 319 Cr.P.C. passed the order at variance with the law laid down by a Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh versus State of Punjab and others, 2014 (3) SCC 92,** whereby law has been settled and it has been held that for deciding an application under Section 319 Cr.P.C., not only a *prima facie* case is to be seen but rather 'more than *prima facie*' case is to be seen because the standard of proof is on a higher and stronger footing as compared to that at the time of framing of charges and it was because of this reason that the learned Additional Sessions Judge, Ludhiana set aside the order passed by the learned Sub-Division Judicial Magistrate, Jagraon also on the point of law and therefore, no fault can be found in the impugned judgment passed by the learned Additional Sessions Judge, Ludhiana on the aforesaid ground.



8. Learned counsel for respondent No.2 further submitted that the fact as to whether respondent No.2 ought to have been summoned as an additional accused or not should also be considered in view of another important aspect of the present case. He further submitted that the marriage between the son of respondent No.2 and the petitioner was solemnized in the year 2008, wherein the son of respondent No.2 and the petitioner immediately within a period of one month had gone back to England and they were staying in England. He further submitted that thereafter, a divorce petition was filed in England itself and vide Annexure R/2-1, which has been attached alongwith the aforesaid application, a decree of divorce has been passed by the Court of competent jurisdiction of England and all the matters stand settled and in that case, total amount of 10,950 pounds have been directed to be paid to the son of respondent No.2 by the petitioner-wife and the matrimonial dispute between the parties rather stood settled way back in the year 2016 before the Courts in England. He further submitted that foreign judgments are also binding upon the Indian Courts by virtue of Section 13 of the Code of Civil Procedure unless the same fall in exceptions. He further submitted that the aforesaid was a contested case before the Courts of England and has a binding force. He further submitted that now especially in view of the fact that the trial is at fag end, in case respondent No.2 is directed to be summoned as an additional accused then it will not only be an abuse of the process of law but it will also cause miscarriage of justice in view of the aforesaid facts and circumstances.

9. I have heard the learned counsels for the parties.

10. It is a case where the challenge in the present revision petition is to the judgment passed by the learned Additional Sessions Judge, Ludhiana dated



04.07.2023, vide which the order dated 03.02.2023 passed by the learned Sub-Division Judicial Magistrate, Jagraon has been set aside. Respondent No.2, who has been sought to be summoned as an additional accused is the mother-in-law of the petitioner-wife and is stated to be of the age of 70 years as of now. The trial of the case is at the fag end. Only the husband, who is the son of respondent No.2 was challaned, who is facing the trial. The prosecution filed an application under Section 319 Cr.P.C. for summoning respondent No.2 as an additional accused.

11. A perusal of the order dated 03.02.2023 passed by the learned Sub-Division Judicial Magistrate, Jagraon would show that after giving the facts of the case pertaining to allegations made in the FIR and the statement made by the petitioner-wife at the time of deposition as PW-1, straightaway respondent No.2-mother-in-law has been directed to be summoned as an additional accused. In view of this Court, the learned Sub-Division Judicial Magistrate, Jagraon has passed the aforesaid order not only at variance with the law laid down by a Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh's case (Supra)** but rather it was contrary to the established principles of law. In fact this was one of the reasons that the learned Additional Sessions Judge, Ludhiana in revision set aside the aforesaid order passed by the learned Sub-Division Judicial Magistrate, Jagraon.

12. Before proceeding on the facts of the case, the law with regard to summoning of an additional accused in **Hardeep Singh's case (Supra)** requires to be considered. A Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh's case (Supra)** observed that for the purpose of summoning a person as an additional accused it is not only a *prima facie* case which is to be seen but



rather ‘more than *prima facie*’ case is to be seen because the standard of proof is on a higher and stronger footing as compared to that at the time of framing of charges. The relevant portion of the aforesaid judgment passed by a Constitution Bench of Hon’ble Supreme Court in **Hardeep Singh’s case** (**Supra**) is reproduced as under:-

“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 of “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”.

13. In the facts and circumstances of the present case, a perusal of the FIR would show that even though a lengthy FIR was got registered, the only allegation made against respondent No.2 was that she asked for all the gold ornaments so that they may remain safe and she got all the ornaments. The aforesaid allegations made by the petitioner-wife in the FIR are *ex facie* evasive and vague in nature. This Court will not lose sight of the fact that it is a normal practice that whenever a matrimonial dispute arises then all the family members of the husband are also dragged in the FIR. The present case is also a classical example of the same. A further perusal of the statement made by the petitioner-wife before the learned trial Court as PW-1 would show that there have been remarkable improvements in the statements made by her.

14. Another important aspect which is to be considered in the present case is that after the marriage between the petitioner and the son of respondent No.2 in the year 2008, they had gone abroad just within a period of one month, whereas the 70 years old mother-in-law is still staying in India, who was sought to be summoned as an additional accused. In the year 2016, the matrimonial dispute between the parties came before the Courts of England and divorce was granted and as per learned counsel for respondent No.2, even some money was also directed to be paid by the petitioner-wife to the husband, who is the son of respondent No.2. Once the matrimonial dispute between the petitioner and the son of respondent No.2 already stood resolved and decided by the Courts of England then further prosecution of the mother-in-law, who is of the age of 70 years and summoning her as an additional accused otherwise also is not in



consonance with law and continuation of the same would certainly be an abuse of the process of law. A perusal of the aforesaid order passed by the learned Sub-Division Judicial Magistrate, Jagraon would show that the test which has been laid down by a Constitution Bench of Hon'ble Supreme Court in **Hardeep Singh's case (Supra)** has not been satisfied and therefore, the learned Additional Sessions Judge, Ludhiana has rightly set aside the order passed by the learned Sub-Division Judicial Magistrate, Jagraon.

15. In view of the above, no illegality or perversity can be found in the judgment dated 04.07.2023 passed by the learned Additional Sessions Judge, Ludhiana and apart from the above, the present is a revision petition regarding which the scope is very limited.

16. In view of the aforesaid facts and circumstances, the present revision petition is dismissed.

17. Interim order dated 25.08.2023 passed in the present case stands vacated since the main case has been dismissed.

(JASGURPREET SINGH PURI)
JUDGE

26.03.2025
Chetan Thakur

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