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

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Decided on:- 23.01.2025

Ankit Saini

....Petitioner

Versus**State of Punjab and another**

....Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Gautam Thapar, AAG, Punjab.

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AMARJOT BHATTI, J.(Oral)

1. Petitioner Ankit Saini has filed criminal revision against impugned order dated 25.08.2023 passed by learned Additional Sessions Judge, Pathankot vide which petitioner has been summoned as an additional accused to face trial in FIR No. 15 dated 15.06.2022 under Section 304-B, 34 of IPC registered at Police Station Narot Jaimal Singh, Pathankot alongwith main accused Lavish Saini alias Mithu and Kuldip Singh.

2. Facts of the case are Madan Lal complainant gave his statement that his younger daughter Priya age about 25 years was married with Lavesh Saini alias Mithu about 5 months ago. He had given dowry as per his capacity but husband of his daughter and her father-in-law Kuldip Singh were harassing his daughter for not bringing Air Conditioner in marriage and used to beat her. His daughter told about this fact to him. He requested Lavesh Saini alias Mithu and his father Kuldip Singh that he will



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arrange Air Conditioner after some time and they should not harass his daughter. There was no change in their behaviour. On 14.06.2022, at about 10:00 pm, he came to know that his daughter Priya has expired. He along with his son Rohit Saini went to matrimonial home of Priya where her dead body was lying in room with marks on her neck. They came to know that she has committed suicide by hanging being harassed by her husband Lavesh Saini alias Mithu and father-in-law Kuldip Singh for not fulfilling their demand. Complainant left his son on the spot and he along with Rakesh Kumar went to lodge report.

3. Learned counsel for petitioner pointed out that petitioner Ankit Saini has been summoned vide order dated 25.08.2023 passed by learned Additional Sessions Judge, Pathankot without appreciating facts and well settled legal position. Material facts have been ignored. At the time of lodging this FIR, there were no allegations levelled against present petitioner by complainant. In support of this, learned counsel for petitioner referred to the statement of Rakesh Kumar (Annexure P-2/T), statement of Sahil alias Makhan (Annexure P-3/T), statement of Ajay Saini (Annexure P-4/T). After a gap of three days i.e. on 18.06.2022, supplementary statement of Madan Lal (Annexure P-5/T) was recorded where name of present petitioner Ankit Saini alias Kaka was also included. Even in said statement, general vague allegations were levelled against him. In the case in hand, there is no suicide note. Deceased committed suicide by hanging. Copy of her Postmortem Report is Annexure P-6. Detailed inquiry was conducted and challan was presented only against Lavesh Saini alias Mithu-husband and Kuldip Singh-father-in-law. Copy of inquiry report is Annexure P-7/T and copy of challan report under Section 173 Cr.P.C. is



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Annexure P-8/T where his name was kept in column No. 2. Madan Lal appeared in Court and gave his statement as PW-1 (Annexure P-9) and gave improved version naming present petitioner. Aforesaid facts were totally ignored by trial Court by passing impugned order dated 25.08.2023. In support of his arguments, learned counsel for petitioner has relied upon Constitutional Bench judgment of **Supreme Court of India** in case titled **“Hardeep Singh Vs. State of Punjab and others”** alongwith other connected cases, cited in **2014(3) SCC 92**, where scope of exercising power by the Court under Section 319 Cr.P.C. has been explained in detail. He has also relied upon another judgment of **Supreme Court of India** in case titled **“Juhru & Ors. Vs. Karim & Anr.”**, cited in **2023(1) Crimes 237**, where in para No. 17, it was observed as under :-

“17. It is, thus, manifested from a conjoint reading of the cited decisions that power of summoning under Section [319](#) Cr.P.C., 1973 is not to be exercised routinely and the existence of more than a prima facie case is sine quo non to summon an additional accused. We may hasten to add that with a view to prevent the frequent misuse of power to summon additional accused under Section [319](#) Cr.P.C., 1973 and in conformity with the binding judicial dictums referred to above, the procedural safeguard can be that ordinarily the summoning of a person at the very threshold of the trial may be discouraged and the trial court must evaluate the evidence against the persons sought to be summoned and then adjudge whether such material is, more or less, carry the same weightage and value as has been testified against those who are already facing trial. In the absence of any credible evidence, the power under Section [319](#) Cr.P.C., 1973 ought not to be invoked.”

Without considering the facts of case and requirement for summoning of additional accused on application under Section 319 Cr.P.C.,



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impugned order dated 25.08.2023 has been passed. Therefore, it is prayed that aforesaid impugned order may kindly be set aside by accepting present criminal revision.

4. Notice was issued to respondents. Learned counsel representing State confirmed the factual position regarding passing of impugned order dated 25.08.2023. However, it is conceded that during investigation present petitioner Ankit Saini alias Kaka was found to be innocent and challan was presented only against Lavesh Saini alias Mithu-husband and Kuldip Singh-father-in-law. Notice was also issued to respondent No. 2 Madan Lal which was duly served but nobody appeared to contest present criminal revision.

5. I have considered the facts of case and documents annexed with petition. Present petitioner has been summoned on application under Section 319 Cr.P.C. as additional accused to face trial along with main accused Lavesh Saini alias Mithu and Kuldip Singh already facing trial in aforesaid FIR. Section 319 Cr.P.C. runs as under :-

“319. Power to proceed against other persons appearing to be guilty of offence.

(1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose



of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under subsection (1), then

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.”

Application for summoning of additional accused can be filed at any stage of trial but at the same time, learned trial Court is required to see the allegations against accused regarding whom application has been filed under section 319 Cr.P.C. Criteria required for summoning of additional accused is more than prima facie case. Prosecution is required to bring on record sufficient evidence/record to establish the involvement and specific allegations of accused who is required to be summoned. Considering the judgments titled “**Hardeep Singh Vs. State of Punjab and others**” **alongwith other connected cases (supra)** and “**Juhru & Ors. Vs. Karim & Anr.**” (supra) relied upon by learned counsel for petitioner, facts and circumstances of case are evaluated. FIR was lodged on the statement of Madan Lal complainant regarding occurrence which took place on 14.06.2022 in which daughter of complainant died unnatural death in matrimonial home within 5/6 months of marriage. As per contents of FIR No. 15 dated 15.06.2022 (supra) (Annexure P-1/T), Madan Lal levelled allegations of maltreatment and demand of dowry against husband Lavesh Saini alias Mithu and father-in-law Kuldip Singh. On 15.06.2022, statements of Rakesh Kumar, Sahil alias Makhan, Ajay Saini were also



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recorded (Annexures P-2/T to P-4/T) where initial version of Madan Lal was confirmed and present petitioner Ankit Saini alias Kaka was not named in said statements. Supplementary statement of Madan Lal was recorded after a gap of three days on 18.06.2022 (Annexure P-5/T) where name of present petitioner was mentioned for first time. Even in this statement, there is no specific incident of harassment or demand raised by present petitioner who is younger brother of Lavesh Saini alias Mithu-husband of deceased victim.

In the light of this, statement of Madan Lal PW-1 (Annexure P-9) is not sufficient to summon present petitioner on application under Section 319 Cr.P.C. Learned trial Court while passing impugned order dated 25.08.2023 has failed to consider aforesaid facts in its right perspective. Resultantly, I find merits in criminal revision filed by petitioner and impugned order dated 25.08.2023 passed by learned Additional Sessions Judge, Pathankot is accordingly set aside by accepting present revision.

6. Pending application(s), if any, also stands disposed of accordingly.

23.01.2025

*lalit***(AMARJOT BHATTI)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No