



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

**CRR-2628-2022(O&M)
Date of Decision:23.05.2025**

Amarjit Kaur

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Mandeep Singh Sachdev, Advocate for the petitioner.

Mr. Karunesh Kaushal, Asst. A.G. Punjab.

Mr. Sahil Soi, Advocate for respondent No.2.

JASGURPREET SINGH PURI J.(Oral)

1. The present revision petition has been filed for setting aside the order passed by the learned Additional Sessions Judge, Jalandhar, whereby the application filed by the prosecution i.e. the State under Section 319 of the Cr.P.C. has been allowed and the petitioner has been summoned to face trial as an additional accused for the offence punishable under Sections 304-B/34 IPC in case FIR No. 19 dated 14.02.2019, registered at Police Station Shahkot, District Jalandhar.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the FIR was registered on 14.02.2019 vide Annexure P-1, in which the petitioner and her son were nominated as accused. The petitioner is the mother of the other co-accused namely Sukhvir Singh and the allegations in the FIR were with regard to the demand of dowry by the daughter-in-law of the petitioner. He submitted that the marriage between



the petitioner's son and his wife took place on 10.01.2016 in India and in the month of March 2017 both of them left for Italy and started living there. Thereafter, on 06.01.2019, both of them came back to India for attending the marriage of daughter of the petitioner and it was on 12.02.2019 that the alleged incident involving dowry death took place on the basis of which the present FIR was registered. Learned counsel submitted that during the course of investigation, the petitioner was exonerated and specific reasons were recorded in the challan, including her plea of alibi that she had gone to some other religious place and was not present at the place of occurrence. He submitted that apart from the above the police was satisfied that the petitioner was not instrumental in causing the dowry death of the daughter-in-law of the petitioner. Although there was a specific presumption against the petitioner but the police had exonerated her after the investigation. He submitted that after the statement of complainant was recorded as PW-1 and another witness namely Bikram Singh, who is a distant relative was examined as PW-2, the application under Section 319 of Cr.P.C. moved by the prosecution was allowed by the learned Additional Sessions Judge, Jalandhar.

3. Learned counsel for the petitioner also submitted that the learned Additional Sessions Judge, Jalandhar has referred the law laid down by a Constitutional Bench of Hon'ble Supreme Court in ***Hardeep Singh vs. State of Punjab & Ors. 2014 (1) R.C.R. (Criminal) 626*** but has not followed the same in view of the fact that as per the aforesaid judgment of the Hon'ble Supreme Court when an additional accused is to be summoned under Section 319 of the Cr.P.C. then the Court has to satisfy itself on the



basis of the material which is available on record and to record its more than *prima facie* satisfaction and not only more than *prima facie* satisfaction but also there has to be cogent and strong reason as to why a person should be summoned as an additional accused.

4. Learned counsel submitted that the facts of the case, including the reasons for exoneration by the police, were not even considered by the learned Additional Sessions Judge, Jalandhar, but the learned Additional Sessions Judge so recorded that it was a fit case for summoning the present petitioner. He further submitted that, in the absence of any material for arriving at a conclusion as to whether there was a strong and cogent reason for summoning an additional accused even if it was a case involving allegations of dowry death where there is a specific presumption the parameters laid down by the Hon'ble Supreme Court in ***Hardeep Singh's case (supra)*** are required to be satisfied, which are *ex facie* not satisfied in the present case.

5. Learned counsel for the petitioner referred to another judgment of the Hon'ble Supreme Court in ***Juhru & Ors. vs. Karim & Anr., 2023 (5) SCC 406*** wherein it was held that merely on the statement of the complainant itself, no person can be summoned as an additional accused unless there are strong and cogent reasons and more than *prima facie* satisfaction is required. In the present case, the learned Additional Sessions Judge, Jalandhar, summoned the present petitioner as an additional accused only on the basis of the statements without recording the reasons as to how learned Additional Sessions Judge, Jalandhar has come to the satisfaction as aforesaid and therefore the impugned order may be set aside.



6. On the other hand, learned State counsel submitted that the order passed by the learned Additional Sessions Judge, summoning the petitioner, is in accordance with law because the allegations against the petitioner were direct and serious.

7. Learned counsel appearing on behalf of respondent No.2 submitted that once there are direct and serious allegations against the petitioner not only by way of FIR but also through the statement deposed before the Court, the presumption under Section 113 of the Evidence Act would arise because it is a case of dowry death. Therefore, summoning of the petitioner is in accordance with law and there is no error in the order passed by learned Additional Sessions Judge because the allegations were not only against the son of the petitioner but also against the petitioner herself being the mother.

8. I have heard the learned counsels for the parties and perused the impugned order and record on the file.

9. After the FIR was registered, in which the petitioner and her son were nominated as accused, the matter was investigated by the police and challan was presented before the Court. As per the challan (Annexure P-2), the police came to the conclusion that the petitioner was innocent in the present case on the basis of various facts, including that she was not present at the place of occurrence at the time of the incident, as she had gone to a different religious place. Furthermore, the medical evidence relating to the deceased indicated that she was suffering from psychological issues due to her inability to conceive a child. However, the learned Additional Sessions Judge allowed the application for summoning the petitioner as an



additional accused under Section 319 of the Cr.P.C. observing that there were direct and serious allegations against her and on the basis of the statement made by the complainant and one of the other witnesses who is stated to be a distant relative of the deceased, the petitioner has been summoned.

10. This Court is of the considered view that merely observing in an order, while deciding an application under Section 319 Cr.P.C., that there are serious and direct allegations against the person who is proposed to be summoned as an additional accused, is not itself sufficient for summoning a person as an additional accused.

11 The relevant portion of the judgment of the Hon'ble Supreme Court in ***Hardeep Singh v. State of Punjab***, which the learned Additional Sessions Judge has referred to and reproduced in the impugned order, is reproduced as under:

99. *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 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. "*

12. A perusal of the aforesaid would show that there has to be a strong and cogent reason for arriving at a conclusion and the conclusion has to be based on more than *prima facie* satisfaction. However, the learned



Additional Sessions Judge has summoned the present petitioner only on the basis of allegations by merely stating that the same are direct and serious

13. This Court, after hearing the learned counsels for the parties, is of the view that the impugned order passed by the learned Additional Sessions Judge, Jalandhar, suffers from patent illegality, is erroneous and is also not in consonance with the law laid down by the Hon'ble Supreme Court in *Hardeep Singh's case (supra)*.

14. Consequently, the present petition is allowed. The impugned order dated 19.10.2022 is hereby set aside. The matter is remanded back to the concerned Court. The learned Additional Sessions Judge, Jalandhar, is directed to pass a fresh order by adhering to the law laid down by the Hon'ble Supreme Court in *Hardeep Singh's case (supra)*. The fresh order shall be passed within a period of two months from today, with a fresh application of mind and uninfluenced by the impugned order dated 19.10.2022 and by the present order passed by this Court. For the sake of repetition, it is made clear that the fresh order shall be passed strictly in accordance with law, adhering to the aforesaid judgment of the Hon'ble Supreme Court in *Hardeep Singh's case (supra)* and by way of a fresh application of mind.

(JASGURPREET SINGH PURI)
JUDGE

23.05.2025

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Whether speaking:

Yes/No

Whether Reportable:

Yes/No