



2025:DHC:4987



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 17.06.2025

+ **CRL.M.C. 3267/2025 & CRL.M.A. 14386/2025**

KUBER BODDH

..... Petitioner

versus

STATE (NCT OF DELHI) & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Vivek Narayan Sharma, Ms. Shruti Priya Mishra, Mrs. Mahima Bhardwaj Kalucha, Mr. Kuber Boddh, Ms. Ashi Sonik, Ms. Manica Singh Avijit and Mr. Adhiraj Wadhera, Advocates.

For the Respondents : Ms. Kiran Bairwa, APP for the State with SI Rajdev, PS CR Park.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed challenging the order dated 10.03.2025 (hereafter '**impugned order**'), passed by the learned Additional Sessions Judge ('**ASJ**'), South East District, Saket Courts, Delhi, in Criminal Revision No. 23/2024.



2. By the impugned order, the learned ASJ upheld the order dated 10.10.2023, passed by the learned Magistrate, whereby the application filed by the petitioner under Section 319 of the Code of Criminal Procedure, 1973 ('CrPC') was dismissed.

3. The germane facts of the case are as follows:

3.1. On 19.11.2009, a complaint was made by the petitioner to the SHO, Police Station Chitranjan Park against the in-laws of his sister Kuhu alleging cruelty, demand of dowry and misappropriation of the stridhan of her sister. On 22.09.2009, a complaint had been made to the ACP, Crimes Against Women Cell, South East District by the victim Kuhu in this regard as well.

3.2. On 21.04.2010, FIR No. 84/2010 was registered at Police Station Chitranjan Park for offences under Sections 406/498A/34 of the Indian Penal Code, 1860 ('IPC'). Respondent No.2 is one of the sisters of the deceased husband of the complainant Kuhu. Briefly, it is alleged that in March, 2007, a matrimonial match was suggested for the complainant Kuhu by one of her relatives. The complainant Kuhu and her family were repeatedly told by the parents of the prospective groom that they will not accept any dowry and the match was fixed. On 21.05.2007, a ceremony of *god bharai* was organized in a Hotel in Gwalior where lakhs of rupees were spent by the family of the complainant Kuhu. Certain Jewelry sets were also given to the complainant Kuhu. A few days before the engagement ceremony, the parents of the groom asked the father of the complainant Kuhu to meet them in Delhi. It is alleged that a demand of ₹20-25 lakhs in cash and



latest jewelry items was made by the father-in-law and mother-in-law of the complainant Kuhu and they insisted that the same be given at the time of the engagement itself. The parents-in-law of the complainant Kuhu further asked her family to make payments for the entire function. Due to shortage of time, the family of the complainant Kuhu could only arrange ₹13 lakhs and the same was handed over to her parents-in-law along with jewelry worth lakhs of rupees. It is alleged that 10 days before the wedding, on 21.11.2007, the mother-in-law of the victim called and demanded that a Mercedes car be gifted to her son for marriage. It is alleged that the mother-in-law further insisted that ₹35 lakhs towards payment of the car be made in cash and the delivery would be taken by them directly from the dealer. The said amount was given to the parents-in-law. A week before the wedding, the victim's parents received another call from her father-in-law who stated that the jewelry handed over earlier has been transferred to her sisters-in-law and new jewelry should be given for the wedding. After wedding, the mother-in-law of the victim took all the jewelry given in marriage on the pretext of safe keeping. It is alleged that after wedding, her parents-in-law started taunting the victim for insufficient dowry and her father-in-law even called her husband to cut short the honeymoon due to not being happy with the marriage. It is alleged that the complainant's sisters-in-law and brothers-in-law also changed drastically and they also taunted her for the gifts given during marriage. After the death of her husband from swine flu in August, 2009, the parents-in-law of the victim ill-treated



her harassed her by calling her “*manhoos*”. It is alleged that in the first week of September, 2009, the accused persons assaulted the victim and threatened her to give up her claims in the properties owned by her late husband. It is alleged that after death of her husband, the victim was locked in the house, not given food and neither allowed to sleep or contact her parents. It is alleged that when she demanded her jewelry items, the victim was threatened by the husbands of her sisters-in-law of dire consequences.

3.3. Chargesheet was filed against multiple accused persons, including Respondent No.2, however, cognizance was only taken against the parents-in-law of the victim. Initially, the parents-in-law of the victim were discharged by the learned Trial Court. Subsequently, the order discharging the said accused was set aside by the learned Sessions Court and charges were framed for the offences under Sections 498A/34 of the IPC on 23.03.2017.

3.4. The complainant approached this Court for framing of additional charge under Section 406 of the IPC as well as for prosecution of all the charge sheeted accused persons. The parents-in-law of the victim also assailed the order of the learned Sessions Court whereby it was directed that charges be framed against them. By common order dated 24.08.2018, this Court directed the learned Trial Court to frame an additional charge for the offence under Sections 406/34 of the IPC and dismissed the challenge of the parents-in-law of the victim.

3.5. The order dated 24.08.2018 was challenged by the complainant



Kuhu before the Hon'ble Apex Court. By order dated 11.02.2019, the Special Leave Petition was disposed of after taking note of the submission of the learned counsel that if subsequently some evidence comes against the accused who had not been sent for trial, the observations in the order dated 24.08.2018 would not come in the way of the learned Trial Court.

3.6. The victim Kuhu was cross-examined and discharged on 22.10.2019 and thereafter, PW1/ the petitioner was cross examined. In the year 2022, an application under Section 319 of the CrPC was filed for seeking summoning of additional accused persons, including Respondent No.2. The said application was dismissed by the learned Trial Court by order dated 10.10.2023. The relevant portion of the said order is reproduced hereunder:

*“9. Bearing the principles in mind, I proceed to evaluate whether there are sufficient grounds made out to summon the suspects namely Agaya Pandeya, Rashmi Pandeya, Meghna Bhatt, Amit Sadana and Pradeep Bhatt at this stage. The complainant in her deposition during trial has levelled allegations against suspects that her sister-in-laws used to accuse her for not conducting marriage as per their standards and used to criticise the gifts given or food prepared at the time of marriage. Further, there is an allegation that after the demise of the husband of the complainant, accused R.P Pandey, Maya, Pandey and Aagya Pandey used to lock her inside the house whenever they used to go out and used to lock her in the room whenever they were in the house. They do not use to give her food or water properly. Further, she was threatened by her sisters-in-law and brothers-in-law to relinquish her share in her late husband's properties or her stridhan back. **The allegations appear to be general in nature. No date and time of the alleged incidents has been mentioned. Further, the general allegations against the above said suspects are not even in regard of demand of dowry.***



10. *Thus, on the overall conspectus of the entire testimony of the complainant, I find that there is no sufficient evidence on record to summon the suspects namely Agaya Pandeya, Rashmi Pandeya, Meghna Bhatt, Amit Sadana and Pradeep Bhatt as additional accused persons to face the trial in the present case.”*

(emphasis supplied)

3.7. By the impugned order, the learned ASJ upheld the dismissal of the application under Section 319 of the CrPC and observed that no *prima facie* case is made out against the proposed accused persons and the averments in the complaint are only bald in nature.

4. The learned counsel for the petitioner submitted that the application under Section 319 of the CrPC was erroneously dismissed without appreciating that specific evidence has come against Respondent No.2. He submitted that the petitioner had filed the complaint dated 19.11.2009 and rescued the victim, who is his sister, with the help of police officers, and Section 319 of the CrPC states that anyone can prefer such an application.

5. He submitted that the allegations cannot be deemed to be vague merely because no specific date or time has been attributed to the incidents. He submitted that the absence of specific dates or time in the victim's testimony does not dilute the gravity of the allegations, especially considering that the victim was subjected to incessant trauma and harassment.

6. He submitted that categorical allegations have been levelled by the victim against Respondent No.2 in relation to her being locked in the house in her examination in chief on 30.10.2018. He further submitted that the victim in her cross examination has also mentioned



that there was no particular time when she was locked in the house and that the accused persons used to ensure that one of them, that is, either of her parents-in-law or Respondent No2, would be there when they left the house. He submitted that the cruelty was a continuing act and not giving any exact date or time does not make the same general or vague.

7. He submitted that examination-in-chief of the victim as well as the evidence of the petitioner is part of the record and constitutes as evidence and the same is sufficient for proceeding against Respondent No.2. He submitted that specific allegations in relation to the atrocities suffered by the victim have been made in the complaint dated 19.11.2009 as well as the statements of the victim and the petitioner under Section 161 of the CrPC.

ANALYSIS

8. At the outset, it is relevant to note that while it is settled law that a second revision cannot be filed in terms of the bar under Section 438 of the Bharatiya Nyaya Suraksha Sanhita, 2023, the inherent power of this Court has a wide ambit and can be exercised in the interest of justice. The Hon'ble Apex Court, in the case of **Krishnan v. Krishnaveni : (1997) 4 SCC 241**, had observed as under:

“8. The object of Section 483 and the purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice. In addition, the inherent power of the High Court is preserved by Section 482.



The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order.”

(emphasis supplied)

9. It is settled law that the Court is empowered under Section 319 of the CrPC to proceed against additional accused and issue summons against them if it appears from the evidence that they have committed an offence for which they can be tried together with the accused. The said power can be exercised if the prosecution at any stage is able to produce such evidence that those who have not been proceeded against as accused, have also committed the offence. The Hon'ble Apex Court in the case of **Rajendra Singh v. State of U.P. : (2007) 7 SCC 378** has expounded the scope and purpose of Section 319 of the CrPC and observed as under:

*“16.As I see it, the words are plain and the meaning clear. When in the course of the enquiry or trial, it appears to the court from the evidence that a person, not arrayed as an accused, appears to have committed any offence for which that person could be tried together with the accused, the court may proceed against that person. **Surely, it must appear to the court from the evidence that someone not arrayed as an accused, appears to have committed an offence.** Be it noted, the court need not be satisfied that he has committed an offence. **It need only appear to it that he has committed an offence.** In other words, from the evidence it need only appear to it that someone else has committed an offence, to exercise jurisdiction under Section 319 of the Code. **Even then,***



it has a discretion not to proceed, since the expression used is “may” and not “shall”. The legislature apparently wanted to leave that discretion to the trial court so as to enable it to exercise its jurisdiction under this section. **The expression “appears” indicates an application of mind by the court to the evidence that has come before it and then taking a decision to proceed under Section 319 of the Code or not.** With great respect, I see no reason to describe the power as an extraordinary power or to confine the exercise of it only if compelling reasons exist for taking cognizance against any other person against whom action has not been taken. After all, the section only gives power to the court to ensure that all those apparently involved in the commission of an offence are tried together and none left out. I see no reason to curtail this power of the court to do justice to the victim and to the society. **It appears to me that it is left to the judicial discretion of the court, judicially trained, to decide to proceed or not to proceed against a person in terms of Section 319 of the Code.**

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20. The power under Section 319 of the Code is conferred on the court to ensure that justice is done to the society by bringing to book all those guilty of an offence. One of the aims and purposes of the criminal justice system is to maintain social order. It is necessary in that context to ensure that no one who appears to be guilty escapes a proper trial in relation to that guilt. There is also a duty to render justice to the victim of the offence. It is in recognition of this that the Code has specifically conferred a power on the court to proceed against others not arrayed as accused in the circumstances set out by this section. **It is a salutary power enabling the discharge of a court's obligation to the society to bring to book all those guilty of a crime.**

21. **Exercise of power under Section 319 of the Code, in my view, is left to the court trying the offence based on the evidence that comes before it. The court must be satisfied of the condition precedent for the exercise of power under Section 319 of the Code. There is no reason to assume that a court trained in law would not exercise the power within the confines of the provision and decide whether it may proceed against such person or not...**

(emphasis supplied)

10. The Hon'ble Apex Court in the case of ***Omi v. State of M.P.*** : (2025) 2 SCC 621 had succinctly discussed the principles in relation



to Section 319 of the CrPC. The relevant portion of the judgment is as under:

“10. In *Ramesh Chandra Srivastava v. State of U.P.* [*Ramesh Chandra Srivastava v. State of U.P.*, (2021) 12 SCC 608 : (2023) 2 SCC (Cri) 625] while this Court has approved of relying upon deposition which has not suffered cross-examination for the purpose of invoking Section 319CrPC, it is relevant to note the standards which have been fixed by this Court for invoking the power under Section 319CrPC. The statement of law in this regard is contained in paras 105 and 106, respectively, of *Hardeep Singh* [*Hardeep Singh v. State of Punjab*, (2014) 3 SCC 92 : (2014) 2 SCC (Cri) 86] : (SCC p. 138)

“105. Power under Section 319CrPC 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 un rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319CrPC. In Section 319CrPC 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 319CrPC to form any opinion as to the guilt of the accused.”

(emphasis in original)



*11. The test as laid down by the Constitution Bench of this Court for invoking the powers under Section 319CrPC inter alia includes the principle that **only when strong and cogent evidence occurs against a person from the evidence the power under Section 319CrPC should be exercised**. The power cannot be exercised in a casual and cavalier manner. **The test to be applied, as laid down by this Court, is one which is more than prima facie which is applied at the time of framing of charges.** It will all depend upon the evidence which is tendered in a given case as to whether there is a strong ground within the meaning of para 105 of Hardeep Singh [Hardeep Singh v. State of Punjab, (2014) 3 SCC 92 : (2014) 2 SCC (Cri) 86] referred to above.”*

(emphasis supplied)

11. Thus, the test for exercising jurisdiction under Section 319 of the CrPC is more stringent than one that exists at the stage of framing of charge and the discretion can only be exercised if such strong or cogent evidence surfaces against the proposed additional accused.

12. At the outset, it is pertinent to note that while the petitioner had sought summoning of Respondent No.2, Ms. Rashmi Sadana (sister-in-law), Ms. Meghna Bhatt (sister-in-law), Mr. Amit Sadana (husband of Ms. Rashmi) and Mr. Pradeep Bhatt (husband of Ms. Meghna) in the application under Section 319 of the CrPC and pressed for the same prayer in revisional proceedings, however, the present petition is only focussed on Respondent No.2 and no relief is sought *qua* the other persons. No reason has been provided for pursuing the case solely against Respondent No.2.

13. It is pertinent to note that although Respondent No.2 was charge sheeted in the present case, summons were not issued against her. Pursuant to the same, the victim had filed a petition before this Court for framing of additional charge as well as for prosecution of other



charge sheeted accused persons, including Respondent No.2. By order dated 24.08.2018, this Court rejected the prayer of the victim for prosecution of charge sheeted accused persons by observing that the allegations against them were general in nature and sweeping allegations against all adult members seemed to have been made out of vendetta. It was further observed that no particulars as to the date and time of the incident had been given. The Special Leave Petition against the said order was withdrawn by order dated 11.02.2019 with the submission that the aforesaid observations do not come in the way of Trial Court if some new evidence comes up against the accused persons.

14. It is argued that a case is made out for proceeding against Respondent No.2 from the statements of the petitioner and the victim under Section 161 of the CrPC, the complaint tendered initially as well as the evidence of the petitioner and the victim.

15. In the opinion of this Court, while any *new* evidence that has come up against Respondent No.2 can be looked at for the purpose of adjudication of the application, however, the observations made by this Court in order dated 24.08.2018 in relation to the material available on record till that time cannot be reagitated in the present proceedings. Even otherwise, this Court is in agreement with the observations of the Coordinate Bench that the allegations in such material are vague in nature. Thus, the statements under Section 161 of the CrPC are of no benefit to the petitioner.

16. Insofar as the 'new' evidence is concerned, it is argued that the



evidence of the victim and the petitioner establishes a case against Respondent No.2.

17. As discussed above, the threshold required to be met is higher than that of a simple *prima facie* case and the discretion to allow the application under Section 319 of the CrPC cannot be exercised in a cavalier manner. The learned Sessions Judge has dismissed the revision petition after finding that the victim has not narrated the allegations in the original complaint and the uncorroborated allegations are vague in nature. The relevant portion of the impugned order is as under:

“25... In the present matter, the complainant Kuhu Pandeya has not narrated regarding any of the atrocities committed upon her by any of the proposed accused in her original complaint which exhibited as Ex.PW2/ A before Ld. Trial Court or in the complaint Ex.PW1/A. The complainant has not whispered a word about the conduct of the proposed accused persons in her aforesaid complaint or in her statements recorded u./sec. 161 CrPC and it is only in her examination-in-chief for the time when complainant has levelled allegations against proposed accused Aagya Pandeya of allegedly locking her inside the room and in the house in the absence of accused persons and of not providing food or water to the complainant. The complainant PW2 during her cross-examination on behalf of accused Maya Pandeya had disclosed that she did not remember the exact time when the aforesaid atrocities were conducted upon her. Further, the witness has been cross-examined at length on behalf of accused Maya Pandeya in this regard. Even PW1 revisionist Kuber Boddh has not disclosed regarding any such atrocities upon the complainant Kuhu Pandeya. The aforesaid allegations of the witness PW2 are not corroborated with PW1 and the same are vague in nature.”

(emphasis supplied)

18. A bare perusal of the examination-in-chief of the victim Kuhu (PW2) shows that she has made broad assertions regarding



Respondent No.2 alleging that she along with other accused persons used to lock the victim inside the house whenever they go out and lock her in a room when they were inside the house. She further alleged that she was not given food or water. In her cross-examination on 21.10.2019, she further deposed that whenever the accused persons used to leave the house, they used to ensure that Respondent No.2 or one of her parents-in-law would be there.

19. Even so, as rightly appreciated by the learned Trial Court and the learned ASJ, the allegations in the deposition of the victim are general in nature. Insofar as the evidence of the petitioner is concerned, the same is also vague in nature. The petitioner has deposed that it was the mother-in-law of the victim and Respondent No.2 who used to confine the victim in a room and not give her any food. Apart from this single sentence in relation to the said allegations, no details have been given.

20. As discussed above, the test for exercise of discretion under Section 319 of the CrPC is the surfacing of *strong* evidence that makes out a case that is more than a *prima facie* case as is seen at the time of framing of charges. Although the allegations are serious, mere mention of the name of Respondent No.2 by the victim or the petitioner, who is her brother, may cast some suspicion against Respondent No.2, but the same falls short of carving a *prima facie* case against Respondent No.2, especially since the particular allegations in relation to the victim being locked in a room by Respondent No.2 were made for the first time by the victim in her



examination-in-chief. As rightly noted by the learned ASJ, such allegations were not made earlier by the victim in her complaint or statement under Section 161 of the CrPC.

21. It is also relevant to note that in her cross-examination, the victim has stated that she did not remember the time and date as to when the atrocities were committed. The petitioner has not given any particulars in this regard as well. While the victim may be able to establish a case that the harassment was continuing in nature and thus no particular dates have been given in trial against her mother-in-law, when the question is of summoning an additional accused, the lack of specifics weakens the cogency of the evidence. This Court does not consider it apposite to further comment on the said aspect as the trial is continuing against the mother-in-law of the victim and any observation made in this regard may prejudice the case of the prosecution.

22. This Court also considers it apposite to take note of the conduct of the petitioner. After having failed to secure summons against other accused persons in challenge before this Court earlier, the special leave petition was withdrawn with submission that the observations shall have no bearing on any new material that comes up. It appears that the petitioner and the victim have subsequently in their deposition sought to cure the defect by making specific mention of Respondent No.2.

23. In view of the aforesaid discussion, in the absence of any strong evidence against Respondent No.2, in the opinion of this Court, the



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learned Trial Court and the learned ASJ have rightly decided to not exercise their discretion in favour of the victim for summoning Respondent No.2. This Court finds no reason to interfere with the impugned order.

24. The present petition is therefore dismissed in the aforesaid terms. Pending application stands disposed of.

25. It is clarified that the observations made in the present judgment are only in relation to Respondent No.2, and the same shall not have any bearing over the trial.

AMIT MAHAJAN, J

JUNE 17, 2025