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

**CRR-3307-2018 (O&M)
Reserved on : 27.03.2025
Pronounced on: 05.04.2025**

Karambir Singh and another

..... Petitioners

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sukesh Kumar Jindal, Advocate and
Ms. Komal Jindal, Advocate, for the petitioners.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. C.R. Narwal, Advocate, for respondent No.2.

KIRTI SINGH, J.

Under challenge in the revision petition is the order dated 10.09.2018, whereby the application under Section 319 Cr.P.C. for summoning the petitioners as additional accused was allowed by the learned Addl. Sessions Judge, Panipat.

2. Briefly put, the facts of the case as culled out from the FIR are that a complaint was made by Azad Singh-complainant (since deceased) to the effect that the marriage of his daughter was solemnized with accused Manish on 10.10.2010. However, shortly after, the accused Manish and his parents started to harass, humiliate and torture the daughter of the complainant on account of less dowry, and went upto the extend of further demanding an air conditioner as also cash amounting to Rs.2,00,000/-. It is

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alleged that on 04.08.2017, the accused Manish along with the present petitioners gave beatings to the daughter of the complainant, resulting into the death of his daughter and her unborn child, who passed away on 06.08.2017. On his statement, the FIR was registered against the accused Manish, and the present petitioners, being the in-laws of the deceased. However, during investigation, the petitioners were kept in column No.2 and the charge-sheet was filed against accused Manish only.

3. Learned counsel for the petitioners *inter alia* submits that the impugned order dated 10.09.2018 has been passed erroneously and is liable to be set aside. The victim died of cardiac arrest. As per the death summary annexed as P-1, she was admitted to hospital on 05.08.2017 at 05.25 a.m, on the complaint of severe breathlessness. While under treatment, she suffered 03 sudden cardiac arrests on 06.08.2017. CPR was performed and she survived the first two, but could not be revived after her third arrest, and was declared dead. She died under normal circumstances, and thus the essentials of dowry death are not made out. The bonafide conduct of the petitioners can also be seen from the fact that their daughter-in-law was taken to the best private hospital and that the parents were also duly informed. It has also been argued that the allegations leveled by PW-1 Nirmala in deposition are all general not specific. During the entire duration of the marriage, no complaint was lodged by the deceased or her parents regarding ill-treatment or demand of dowry. Yet, the learned trial Court mechanically passed the order despite fact that there was no strong and cogent evidence on record at the time of the trial, and thus, the same deserves to be set aside.

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4. *Per contra*, learned counsel for respondent No.2 has vehemently opposed the prayer and submitted that there is no infirmity in order dated 10.09.2018 passed by the learned Addl. Sessions Judge, Panipat and that the same is a well-reasoned order passed after a thorough appreciation of the facts of the case. The original informant Azad Singh passed away during the pendency of the trial and consequently, respondent No.2 being the mother of the deceased is now the aggrieved party. It has been vehemently argued that the deceased was married to the accused on 10.10.2010, following which the deceased was subjected to harassment and torture due to insufficiency of dowry items. Accused Manish along with his parents raised further demands for dowry including an air conditioner and cash amount of Rs.2,00,000/-, on the non-fulfillment of which, subjected the deceased to beating on numerous occasions. It is submitted that while the victim was admitted in the hospital, she conveyed to her father through gestures that she had been assaulted by her husband and his parents. Accused Manish and his parents were present near the hospital bed at that time. She indicated that Manish had inflicted injuries to her by kicking her in the stomach. She also pointed out towards her father-in-law and mother-in-law, the present petitioners, indicating that they slapped and punched her on different parts of her body. It has been strongly stressed that the victim was 6-7 months pregnant when she was assaulted by her husband and in-laws due to insufficient dowry, which ultimately made her to die an untimely death and the same has been corroborated by the medical evidence. Learned counsel further submits that the prosecution witness, namely Nirmala, wife

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of the complainant and mother of the deceased, was thoroughly examined-in-chief, on the basis which the learned Public Prosecutor moved an application under Section 319 Cr.P.C (Annexure P4) for the summoning of the proposed accused, who had been dropped as accused from the investigation, and the same was allowed by the learned trial Court.

It is further submitted that during course of investigation, the accused Manish was interrogated by the investigating agency and his disclosure statement was recorded which is as under:-

'In the presence of the undersigned witnesses, the accused Manish while in police custody, voluntarily disclosed without any fear, pressure or inducement:- My marriage was solemnized on 10.10.2010 according to Hindu customs and traditions with Rakhi, daughter of Azad, belonging to the Chamar caste, resident of House No. 821B-1. Ratpur Colony, Pinjore, District Panchkula. However, my parents were unhappy with my wife for bringing insufficient dowry. A few days after the marriage, my parents and I started harassing and beating her to demand more dowry. Due to this harassment and physical abuse, my wife left for her parental home several times. However, after admitting their mistake in the panchayat, my parents would bring her back, promising not to demand dowry or assault her in the future.

"My wife Rakhi gave birth to my daughter Sujan, who is now about three and a half years old. At the time of the incident, my wife was about 6-7 months pregnant. On 04.08.17, my parents and I demanded that she bring an AC and two lakh rupees as dowry after the child's birth. My wife refused, saying her parents were poor and could not fulfill this demand. When she refused. I kicked her in the stomach in anger, and my parents also slapped her. Due to the kick, she started experiencing severe abdominal pain.

To cover up the incident, on the morning of 05.08.17, my parents and I admitted her to Prem Hospital, Panipat. However,

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during treatment, my wife Rakhi died due to the injuries inflicted by us, which caused complications in her pregnancy. I can identify and point out the location where my parents and I assaulted her.

The voluntary disclosure statement of the accused was recorded accordingly. The accused and the witnesses signed the statement."

After recording the disclosure statement, the accused Manish Kumar pointed out the occurrence place which was recorded in a separate site inspection memo is as under:

"Site Inspection Memo (Pointing Out by the Accused)

In the presence of the undersigned witnesses, the accused Manish, in accordance with his voluntary disclosure statement, arrived at the incident location in a private vehicle while in police custody. Upon reaching the front of his residential house in Ekta Vihar Colony, Panipat, the vehicle was stopped, and the accused stepped out. Walking ahead, he entered a room inside his house and pointed with his right hand, stating that on 04.08.17, my wife Rakhi was beaten by me and my parents at this very spot. The site inspection (pointing out) was thus completed. The accused and the witnesses signed the memo. Sd/- Accused Manish.'

It has also been argued by the learned counsel for the petitioners that this Court, while staying the proceedings before the learned trial Court on 26.11.2018, had summoned the record of the trial Court and therefore, none of the prosecution witnesses have been examined before the trial Court except for the one prosecution witness, Nirmala, who has been examined only in-chief.

5. It is the contention of the learned State counsel that the petitioners were rightly summoned by way of the impugned order dated 10.09.2018, since there exist grave and serious allegations against the

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petitioners of having subjected their daughter-in-law to constant harassment for dowry, and having beaten her even when her pregnancy was at an advanced stage, consequently causing medical issues which led to the untimely and unfortunate demise of the deceased and her unborn child, within the first 7 years of her marriage. Learned State counsel submits that it is the admission of the accused husband in his statement made before the investigating agency that he alongside his parents had indeed subjected the deceased to torture because of their rapacious demands for dowry. It is advanced that though such statements are not admissible as evidence in a trial, however, given the heinous nature of the allegations leveled against the petitioners which are said to have led to the death of not one but two innocents, the facts of the case and evidence on record warrant to be viewed in light of the admissions of the accused husband.

6. Heard the submissions made and perused the judicial file along with the record of the trial Court.

7. 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

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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."

8. The Hon'ble Supreme Court in **Criminal Appeal No.1487 of 2025 decided on 01.04.2025 titled as Satbir Singh Vs. Rajesh Kumar and others**, held as under:-

'14. Quite recently, a coordinate Bench of this Court in Jitendra Nath Mishra v. State of Uttar Pradesh & Another¹¹, upon considering Hardeep Singh (supra), had the occasion to observe as follows:

"10. Section 319 CrPC, 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

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charge-sheet. Therefore, what is essential for exercise of the power under Section 319 CrPC 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 CrPC, 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.”

9. Further, answering in affirmative to the question of whether the Court can exercise the power under the provision of 319 Cr.P.C. on the basis of the statement made in examination-in-chief of the witnesses concerned, the Supreme Court in **Hardeep Singh (supra)** observed that since a person against whom material is disclosed is only summoned to face trial, the Court need not wait for the evidence against the proposed accused to be tested by cross examination.

10. 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

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ensuring that no one can escape from the clasp of law simply because they were not initially identified as an accused.

11. In the instant case, the complainant, i.e., the father of the deceased, who also unfortunately passed away during the initial stages of the trial, had leveled specific allegations qua the harassment and beatings meted out to his daughter by her husband and the present petitioners due to the demand of dowry in the FIR. It was even stated by him that while his daughter was admitted in the hospital, she gestured to him and his wife that the petitioners and their son had given beatings to her. Thereafter, the mother of the victim, Nirmala, who was also present when the deceased leveled allegations, by way of gestures, of beatings against her husband and the proposed accused, made a categorical deposition to that effect on oath during her examination in chief as PW-1.

12. At this stage, it is only the summoning of the petitioners 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 leveled against the petitioners is yet to be proved during the course of trial.

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

14. For the foregoing reasons, the impugned order dated 10.09.2018 passed by the learned Addl. Sessions Judge, Panipat, is upheld. The petition is accordingly, dismissed.

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15. Nothing stated hereinabove shall be construed to be an expression of an opinion on the merit of the case.
16. The learned Addl. Sessions Judge, Panipat is encouraged to take the trial to its logical conclusion, in accordance with law, as expeditiously as possible.
17. Learned trial Court record be sent back to the trial Court concerned.
18. Pending miscellaneous application(s), if any, also stands disposed of, accordingly.

(KIRTI SINGH)
JUDGE

05.04.2025

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No