

State Versus Samarveer

Present: Ms. Shikha, Ld APP for the State,
Sh. RS Bedi, Advocate counsel for accused.

In view of the reasons mentioned in the present application, the personal appearance of the accused Samarveer is exempted for today only.

This order of mine shall dispose off an application under Section 319 Cr.P.C. wherein it has been submitted by the Ld. APP for the State that the complainant Pardeep Kumari has deposed before this Court as PW1 and in her examination in chief she has specifically named three persons who were equally involved in the crime and committed the same but those were not challaned by police authorities. It is worthwhile to mention here that she moved an application against those persons as well along with present accused. The names of these persons are Amarjit Singh son of Gurudev Singh, Inderjit Kaur wife of Amarjit Singh, Tanveer Kaur wife of Gagan. She further stated that there are specific allegations against the accused in complaint to SSP office Hoshiarpur but still police officials registered case against the present accused only i.e., Samarveer Singh due to influence of his father who is retired from police department. As such, additional accused are also liable to be summoned to face the trial.

I have heard the APP for the State and have perused the file carefully with her able assistance.

Perusal of the FIR shows that the same was filed against Samarveer whereas, complainant has filed complaint against four persons i.e. Samarveer, Amarjit Singh, Inderjit Kaur,

Tanveer Kaur leveling allegations against all those persons under Section 498-A, 406 of IPC. Further perusal of the statement of the complainant in the Court reveals that she has leveled allegation against all of the family members of her husband but without stating any specific date and time when those acts of alleged cruelty were done. The police has given the challan under Section 173 Cr.P.C. against the Samarveer i.e. husband of the complainant only, after investigating the case thoroughly and finding the other accused innocent.

Perusal of the report under Section 173 Cr.P.C. and the statement of complainant before the police and in the Court as PW1 shows that she has not specifically told as to when and how the person mentioned by her, has committed an offence under Section 406 and 498-A IPC. She has not even mentioned in the application, as to who has caused injuries on her person. She has not even mentioned as to when and where any demand of dowry was made to her and when she was subjected to cruelty by any of the person mentioned in the application filed by the prosecution. Moreover, as per Hon'ble Supreme Court of India, in case titled as **Mohd. Shafi vs. Mohd. Rafiq 2007 (2) RCR (Criminal) 762**, it was held that the power to summon additional accused is discretionary power but it should be exercised sparingly and in exceptional cases, only when some other evidence has come before the Court. Perusal of the file further shows that there are no compelling reasons and no satisfactory explanation on record to summon the person mentioned in the application in hand. Further in **Ajay Chaudhary Vs. State of Bihar and other 2013 (3) PLJR**

145 it was held by the Hon'ble Court that power under Section 319 of Cr.P.C. should be exercised with caution. Court must have reasonable satisfaction from evidence already collected with regard to two aspects, first, that other person has committed an offence and secondly that person can be tried along with the person already arrayed as accused. There should be overwhelming evidence that has come during trial which made likelihood conviction of person so summoned. In the present case there is no evidence against Amarjit Singh, Inderjit Kaur, Tanveer Kaur to summon them as an accused in this case. So from what have been discussed above, I find no justification in summoning the additional accused under Section 319 Cr.P.C. hence the application stands dismissed and disposed off accordingly. Now to come up on 07.12.2021 for prosecution evidence.

Date of Order: 26.10.2021
Steno Sunita Chauhan

(Navreet Kaur)
JMIC/Garhshankar
UID PB 0436